IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

JACQUELYN MARES, M.D.	:	**Case No. 2019 CV 02921**
Plaintiff,	:	**Judge E. Gerald Parker**
v.	:	
MIAMI VALLEY HOSPITAL, et al.,	:	
Defendants.	:	

PLAINTIFF'S MOTION TO CONTINUE DATE FOR RESPONSE TO DEFENDANTS' MIAMI VALLEY HOSPITAL, PREMIER HEALTH PARTNERS, AND TERESA ZRYD, M.D. MOTION FOR SUMMARY JUDGMENT (RULE 56(F))

Pursuant to Ohio Civil Rule 56(F), Plaintiff, Jacquelyn Mares, M.D., hereby requests that the Court order a continuance to allow her to take discovery to establish facts necessary to respond to Defendants' Miami Valley Hospital ("MVH"), Premier Health Partners ("PHP"), and Teresa Zryd, M.D. ("Dr. Zryd") Motion for Summary Judgment. In support of this motion, Dr. Mares relies upon the accompanying memorandum of law and declaration of Marc D. Mezibov, attached hereto.

Respectfully submitted,

/s/ Marc D. Mezibov
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Attorneys for Plaintiff Jacquelyn Mares, M.D.

MEMORANDUM

MVH Defendants' motion for summary judgment is premature and should be continued pending the completion of discovery, which has not yet been permitted or conducted in this case.

I. Legal Standard

This Court has not yet adopted any case management plan that permits the MVH Defendants to file a motion for summary judgment. Plaintiff Jacquelyn Mares, M.D. filed her Complaint in June 2019, and the MVH Defendants filed their Answer in July 2019. Under the local rules, this Court will now hold a pre-trial conference "to establish all filing and discovery deadlines" (Mont. Co. C.P.R. 2.01(B)(2)(b)(ii)), including "a discovery cut-off date" and "a date for the filing of . . . motions for summary judgment" (*id.*, 2.07(B)(2)(b) and (c)). The threshold step of adopting an orderly case management plan "will achieve the prompt and fair disposition of civil cases [and] provide the Court with an efficient means of controlling the flow of civil cases" (*id.*, 2.01(A).

This Court's local rules are consistent with the Ohio Rules of Civil Procedure. Rule 56(C) anticipates that discovery will precede any motion for summary judgment. Among other things, the specific categories of evidence admissible on such a motion include materials generated only in discovery ("pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact," emphasis added).

The precondition of discovery for summary judgment motions is well established in this District. *See, e.g., WAS, Inc. v. Alea London, Ltd.,* 2d Dist. Montgomery No. 20646, 161 Ohio App.3d 111, 2005-Ohio-2533, 829 N.E.2d 727, ¶ 8 (reversing summary judgment rooted in "speculation" because it was "premature until facts . . . are revealed"

in discovery); *Weinberg v. Weinberg*, 2d Dist. Montgomery No. 27834, 2018-Ohio-2862, 117 N.E.3d 907, ¶ 28 (reversing summary judgment rooted in a "relatively sparse" rather than "fully developed summary judgment record.")

A continuance under Rule 56(F) is the proper relief where, as here, a motion for summary judgment relies only on "an 'uncorroborated, self-serving affidavit [by defendant] . . . insufficient to establish the absence of any genuine issue of material fact where the opposing parties have not yet been afforded an opportunity to explore the underlying facts through discovery.'" *Farmer v. PNC Bank, N.A.,* 2d Dist. Montgomery No. 27149, 2017-Ohio-4203, 92 N.E.2d 218, ¶ 11 (emphasis in original).

II. Disputed Issues of Fact

Discovery is likely to reveal evidence relevant to the following disputed issues of fact that is within the exclusive knowledge and control of the MVH Defendants and third parties. Because that evidence is not presently known, or accessible, to Dr. Mares or her counsel, they are unable to generate a full, accurate, and complete affidavit by Dr. Mares to oppose the MVH Defendants' summary judgment motion and instead request this continuance under Rule 56(F). (Affidavit of Marc D. Mezibov (attached hereto as Exh. A)).

A. Reason for Dismissal

Dr. Mares alleges she was dismissed from her fourth year OBGYN residency position in order to pad the program's accreditation statistics. Compl. ¶ 18. The MVH Defendants dispute this allegation of fact. MVH Answer ¶ 18. However, their motion for summary judgment does not address it at all, either by argument or evidence.

The MVH Defendants contend Dr. Mares was dismissed for irritability. Dr. Zryd Affid., ¶ 13. Dr. Mares disputes this allegation of fact. Compl. ¶ 19.

Dr. Mares also alleges that any irritability was a symptom of "physician burnout," a workplace-related syndrome caused by Defendants. Compl. ¶ 20. The MVH Defendants dispute this allegation of fact. MVH Answer ¶ 18. However, their motion for summary judgment does not address it at all, either by argument or evidence.

B. Contract Obligations and Breaches

Dr. Mares alleges that the MVH Defendants had a contractual obligation, which they breached, to dismiss her only for specified reasons that did not include padding the program's accreditation statistics. Compl. ¶ 20(a), (b), (c). The MVH Defendants' dispute these factual allegations of obligation and breach. MVH Answer ¶ 20(a), (b), (c). Their summary judgment motion contains a long legal argument about contractual obligations, but in terms of evidence refers only to the employment agreement attached to Dr. Mares's Complaint and Dr. Zryd's personal, conclusory, and untested interpretation that Dr. Mares was an "at will" employee. Dr. Zryd Aff. ¶ 6.

Dr. Mares also alleges that the MVH Defendants had a contractual obligation, which they breached, to identify and ameliorate the burnout caused by their residency program's working conditions, not contractual permission to dismiss her for its symptom of irritability. Compl. ¶ 22(e). The MVH Defendants' dispute these factual allegations of obligation and breach. MVH Answer ¶ 22(e). But once again, as evidence their summary judgment motion cites only the employment agreement attached to Dr. Mares's Complaint and Dr. Zryd's personal, conclusory, and untested interpretation that Dr. Mares was an "at will" employee. Dr. Zryd Aff. ¶ 6.

Dr. Mares also alleges that the MVH Defendants had a contractual obligation, which they breached, to honor the findings of her due process panel and not to dismiss her when the panel found, as they did, there was no basis for dismissal. Compl. ¶ 22(e).

The MVH Defendants' dispute these factual allegations of obligation and breach. MVH Answer ¶ 22(e). Their summary judgment motion presents evidence only in the form of Dr. Zryd's affidavit, which simply reflects her belief that the employment agreement obligated the MVH Defendants to hold a due process hearing, but not to follow it, which of course is not "due process" at all. Dr. Zryd Aff. ¶¶ 10-13.

C. "Reasonable Minds" May Differ

The MVH Defendants' motion for summary judgment repeatedly contends that "reasonable minds can only conclude" the disputed facts and law in their favor. Def. Mo., *passim*.

The problem for the MVH Defendants, however, is that nearly a dozen highly educated, impartial, and reasonable minds with first-hand knowledge of the facts have already differed with the MVH Defendants' purported facts, interpretations and arguments. For example, far more faculty members of the OBGYN residency program opposed Dr. Mares dismissal than supported it, and eight of them wrote letters to the MVH Defendants expressing that support (attached hereto as Exh. B). Additionally, the full transcript of Dr. Mares's "due process" hearing demonstrates the basis on which the panel's three impartial faculty members sided with her (transcript attached hereto as Exh. C).

III. Conclusion

Discovery has not yet been permitted in this case, and Dr. Mares needs discovery in order to obtain evidence supporting her claims. The MVH Defendants' motion for summary judgment is premature. Dr. Mares respectfully requests that it be continued pending the completion of discovery.

Respectfully submitted,

/s/ Marc D. Mezibov
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Attorneys for Plaintiff Jacquelyn Mares, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2019, this document was eFiled via the Court's eFile system which shall send notifications of this filing to the following:

Jonathan Hollingsworth
HOLLINGSWORTH & WASHINGTON, LLC
6494 Centerville Business Parkway
Centerville, Ohio 45459

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/s/ Marc D. Mezibov
Marc D. Mezibov (OH No. 0019316)

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

JACQUELYN MARES, M.D.	:	**Case No. 2019 CV 02921**
Plaintiff,	:	**Judge E. Gerald Parker**
v.	:	
MIAMI VALLEY HOSPITAL, et al.,	:	
Defendants.	:	

AFFIDAVIT OF MARC D. MEZIBOV

I, Marc D. Mezibov, having been duly cautioned and sworn, state as follows:

1. I am counsel for Plaintiff in the above-captioned matter.
2. On September 11, 2019, Defendants' Miami Valley Hospital, Premier Health Partners, and Teresa Zryd, M.D. filed a motion for summary judgment asking that Dr. Mares's complaint against them be dismissed.
3. To date, neither Dr. Mares nor any other defendant has conducted any discovery. In fact, no case management or pretrial order has yet to be established.
4. It has been my practice and experience that, prior to conducting any discovery, a pretrial conference be held to establish, among other things, dates for the exchange of information and a discovery cutoff date. To the best of my knowledge and belief, this process is established by this Court by Local Rule 2.07 governing pretrial procedures in civil cases.
5. It is my professional opinion that in order to fairly and responsibly respond to the motion for summary judgment filed by Defendants, it is essential that I be

EXHIBIT A

permitted to conduct discovery, at a minimum, with respect to the following issues of fact:

a. Whether Defendants complied with the terms and conditions of the employment agreement between Dr. Mares and Miami Valley Hospital;

b. What are the nature, identity, and scope of the joint obligations and responsibilities of Wright State University and Miami Valley Hospital with respect to the operation of the Wright State University Obstetrics and Gynecology Residency Program;

c. The nature and quality of Dr. Zryd's assessment of the recommendations of the individual defendants that Dr. Mares be dismissed from the Residency Program;

d. What were the nature, frequency, and substance of any communications pertaining to Dr. Mares by and between Dr. Zryd and any of the individual defendants;

e. Whether Dr. Mares's termination was motivated, in whole or in part, by Defendants' consideration of her physician burnout;

f. Whether Defendants complied with their contractual obligations to mitigate the effects of Dr. Mares's physician burnout;

g. Whether Dr. Mares's termination was motivated in whole or in part by consideration of the program's need to maintain its accreditation.

h. Whether Dr. Mares was treated similarly to other residents by the individual defendants with respect to her continued participation in the Residency Program;

Further Affiant Sayeth Naught.

Marc D. Mezibov

Sworn to and subscribed before me this 13 day of September, 2019:

NOTARIAL SEAL STATE OF OHIO

BRIAN J. BUTLER
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

Notary Public

Premier Health
Miami Valley Hospital

One Wyoming St.
Dayton, Ohio 45409
mvh.org

To: Dr. Susan Edwards, Ph.D.
Executive Vice President for Academic Affairs and Provost

From: Dr. Marc Belcastro, D.O.
Chief Medical Officer and Vice President of Operations
Premier Health, South Region
mrbelcastr@premierhealth.com
937-208-2712
937-974-9314

Dear Dr. Edwards,

I am writing on behalf of Dr. Jackie Mares, the OB/Gyn resident that was recently released from her program with about 6 months remaining. While I am not intimately familiar with the specifics of her case, I have reviewed her appeal letter and have picked up a few themes. Her leaders and mentors often expressed disapproval of her decisions with silence or lack of clear and direct feedback. There seemed to be no attempt to coach her through situations where she felt unsafe or how to regain the trust of a patient. She appropriately apologized for one situation and had developed some degree self-awareness and self-reflection. Finally, a finding of untruthful documentation was added to the list of complaints to which she had no recollection or time to adequately respond.

Prior to the hearing and decision, I had been informed of her situation in general terms from the maternal fetal medicine physicians providing her support. This is a group that spends a significant amount of time teaching the residents, so her character would not be foreign to them. They reached out to me because of my considerable experience in coaching and mentoring physicians and nurses in relationship building, listening and communication skills, as well as emotional awareness. These are skills I have learned and used through Premier Health's engagement with a company out of Columbus called, "Business of People". I currently facilitate a physician/advance practitioner cohort. I expressed a willingness to meet with Dr. Mares up to weekly if necessary, for the remainder of her residency to ensure her success.

As a Chief Medical Officer, I understand the importance of our Bylaws, Rules and Regulations, and holding our providers accountable for professionalism and behavior. Healthcare is a sacred responsibility and patients deserve our best. I also believe that leaders must be very clear and direct about expectations when someone's life and career hang in the balance. Finally, as leaders, we need to extend grace and design a clear plan for improvement to help every individual be successful if possible. Dr. Mares was given only time, and her leaders acted after a number of events transpired, but I do not believe she was provided with the feedback, expectations, or resources to be as successful as I know she can be. This is a life, and leaders need to value and care for those they lead. I ask that you strongly consider a different path for Dr. Mare to complete her residency with clear guardrails.

Please feel free to contact me,

Sincerely,

Marc Belcastro, D.O.

EXHIBIT B

Miami Valley Hospital
Premier Health Partners

The Center For Maternal-Fetal Medicine, Ultrasound and Genetics
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December 14, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonel Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Dr. Edwards:

This letter is written on behalf of Dr. Jacqueline Mares. I am privileged to serve as her advisor during the appeal process addressing her termination from the Wright State University Boonshoft School of Medicine, Obstetrics and Gynecology Residency Program. To introduce myself, I am a product of this residency program, class of 2007. In my years here I have worked with over 110 residents in the WSU BSOM OB/GYN Program. In my honest opinion, Jackie is as human as the rest of us. She is young and under pressure, burned out and trying to cope with the immense stressors of our amazing profession. She is also competent, compassionate, skilled, hard-working, and dedicated to patient care. Jackie possesses immense potential.

Prior to her termination, Jackie and I had developed a solid working and interpersonal relationship. In my time as her formal advisor, she has confided in me a raw, detailed account of OB/GYN residency as viewed through her lens. Through my subsequent, objective investigations, I have come to understand that she has not committed a single grievance I have not witnessed before in this program. Some of her grievances I myself was guilty of in training, and others I have seen committed by attending physicians who are currently recommending her termination from this training program. My recognition that she has become a casualty of this dichotomy between expectations and reality is, quite frankly, one of the most sobering realizations in my experience as an attending physician to date.

I am openly fraught by worry for Jackie Mares and her future. She has dedicated her *entire* adult life to becoming a physician. Her identity has been permanently altered by the art and practice of medicine. She has suffered from burnout during the rigors of residency training, and despite moments of desperation she has developed a reinvigorated passion for obstetrics and gynecology. Jackie has pushed ahead with good work ethic and determination to develop a skill set that illustrates competency and great potential for future growth. I along with an overwhelming cohort of physicians and other medical personnel at Miami Valley Hospital are distressed by her termination because we have come to understand we *need her and what she brings to our profession.*

The collection of documents and letters presented to you is a representative portion of the narrative of the WSU BSOM OB/GYN Residency Program as experienced by one Dr. Jacqueline Mares. It is in part an historical account of the program's strengths and successes, as well as its struggles and shortcomings. Jackie's story also carries a cautionary message comparable to that of the canary in the coal mine. My exploration and dissection of her residency experience has manifested as my realization that the canary metaphor has evolved into real human experience within the WSU OB/GYN Residency Program. During her appeal hearing, Dr. Yaklic acknowledged that we failed Jackie. Yet here we are, bearing witness to an abominable sacrifice of the proverbial lamb.

As a physician educator, I ardently believe we must re-center our focus to the observation made by the program's chair. Furthermore, we should explore our failure in resident education lest we risk recurring future loss of physicians of great potential. As stewards of physicians in training, we must commit ourselves no only to the promotion of their academic success and technical skills, but also to fostering their emotional and mental well-being.

Dr. Edwards, please examine the transcript of the appeal hearing and all materials Jackie provided to Dr. Painter during that time. Study the details of the appeal committee's recommendations and action plan. Read each letter of support word-by-word. Consider what appears to be a breach of due process by Dean Margaret Dunn when she cited a patient safety report (PSR) as justification for overturning the appeal committee's recommendations although this PSR was never presented to the committee, and as a result Jackie was not able to address it prior to Dean's decision. I implore you to do the difficult but right thing by reinstating and supporting Dr. Jacqueline Mares as a PGY-4 in the WSU BSOM OB/GYN Residency Program.

You are very welcome to contact me if you wish to discuss this matter in person or by phone (cell: 937-477-7178; asst: 499-0122). Thank you for attention.

Sincerely,

Melanie M. Glover, MD
mmglover@premierhealth.com
Chair, MVH Department of OB/GYN
Chair, MVH Safety Committee
Chair, Morbidity and Mortality Improvement
Clinical Assistant Professor, Dept. of OBG, BSOM, WSU

Boonshoft School of Medicine
WRIGHT STATE UNIVERSITY

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December 12, 2018

Susan Edwards Ph.D.

Provost

Wright State University

Dear Dr. Edwards,

I am writing in support of Dr. Jacqueline Mares' appeal to complete her residency in the Department of Obstetrics and Gynecology Boonshoft School of Medicine located at Miami Valley Hospital. I have trained her for over 2 years. The details behind her dismissal and inability to complete her 4th and final year of residency will no doubt be readily available to you. However, I support that she should be allowed to complete her residency.

I am the Women's Health Clerkship Director and an Associate Professor in the WSU-BSOM Department of Ob-Gyn. I manage 3rd year medical student education in a didactic fashion and by providing a good clinical learning environment. Dr. Mares is one of our preceptors, as are all the residents in our program. She was identified in several student evaluations to be a preceptor who provided a hostile working environment. This was through communication mistakes and poorly demonstrated attitudes toward student education. Because of multiple negative evaluations, the BSOM administration insisted on management. The Dept. Ob-Gyn Chair, Dr. Jerome Yaklic and Residency Director, Dr. Michael Galloway, responded by counseling of Dr. Mares and initiating her probation.

Dr. Mares made the changes that were asked of her and this was reflected in medical student evaluations that indicated a positive change. There were no negative evaluations of her in the 6 months subsequent to her probation. In addition, there were some commendations of her teaching. I was very pleased to see this change.

The decision that the Dept. Ob-Gyn made to not allow Dr. Mares to complete her residency was based on her negative communications with individuals on several levels including: subordinates, colleagues, attending physicians, and most recently a patient's family member. This collection of events over the last two years indicate that she has a problem with the management of her own stress leading to unprofessional communication.

As a member of the WSU Dept of Ob-Gyn Residency Education Committee, I originally voted that she be allowed to finish her residency despite repetitive infractions of professionalism because I weighed this communication problem against her ability to be an Ob-Gyn. Her knowledge and skills in my specialty are on par with her peers and she has demonstrated excellent communication skills. Her communication mistakes are inconsistent and unpredictable. It seems to be that during extreme stress, Dr. Mares' attention to this weakness

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breaks down. Still her mistakes are not excusable and she needs dedicated help to have consistent and dependable good communication skills.

With all due respect to my Chair, Dr. Yaklic, my Dean, Dr. Dunn and Assistant Dean, Dr. Painter, and others who spent hours poring over this problem of how to handle Dr. Mares and her communication blunders, and made the decision that she is appealing now, I still stand by my feeling that she should be allowed to complete her residency. With the right help and with time she will manage her stress and she will consistently communicate effectively. I ask that you give her this chance.

Most sincerely,

Sheela Barhan M.D.

Associate Professor

Clerkship Director of Women's Health

WSU- Boonshoft School of Medicine

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December 13, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonel Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Dr. Edwards:

I request you please read this letter carefully. You have an opportunity to right a wrong which is contrary to the University's core values, save a young physician's career, and prevent irreparable harm to Wright State University.

I am writing this letter on behalf of Jacquelyn Mares, MD, whom Dean Margaret Dunn has recommended be terminated from the WSU BSOM Obstetrics and Gynecology Program. My affiliation with this residency program began 1992, and I believe my judgement and experience are sound when I unequivocally say the Dean has made a grave mistake.

I am a member of the Department's Clinical Competency Committee and was present when the original recommendation was made on 10/3/18 to terminate Dr. Mares' employment. In retrospect, it is clear the information presented to this committee regarding Dr. Mares' conduct was hearsay, biased, and flawed. In truth she suffers from burnout, and despite this mental health condition has significantly improved her professionalism during her probationary period.

Per the University's due process, Dr. Mares' case was reviewed on 11/7/18 by a formal review panel. Comprised of three BSOM faculty, the panel's evaluation of the evidence took six hours. After hearing all sides, the panel recommended she continue on probation, and added elements to treat burnout, improve her professionalism, and succeed as a physician. These elements include professional counseling, a formal course on professionalism, oversight, and mentoring.

This recommendation was subsequently rejected by the Dean who cited two additional brand new allegations, neither of which Dr. Mares was ever made aware, nor given the opportunity to explain. As a faculty member, attending physician at Miami Valley Hospital, and member of the Clinical Competency Committee, I never heard about the new allegations. The Dean's action was capricious and arbitrary, and ignored the due process and work of three physicians who dedicated the better part of a day developing a solution to help Dr. Mares.

The crux of the issues with Dr. Mares relate to lapses in professional behavior, which she acknowledges and has objectively improved. She has never placed patients in danger, nor has her clinical care been an issue. She recognizes that she responds to stress unfavorably, and has been working on her reactions. Who among us does not have room to improve their response to stress?

The University and Medical School have an obligation to provide Dr. Mares the opportunity to be successful. The review panel's plan does just that. Termination will ruin her career. She will never be able to practice medicine. It will also damage the reputation of the Department of Obstetrics and Gynecology, the BSOM, and Wright State University. Residents, medical students, and medical school applicants will know that the program chooses to terminate residents rather than provide the resources needed to combat mental health conditions such as physician burnout. The damage to our reputation will have long lasting negative effects, something Wright State can hardly afford.

I hope from this appeal you clearly see Dr. Mares' termination is wrong, and that she is deserving of our program's help. I have tried to be brief, and I would be happy to discuss any of this content further with you in person, or you may call me on my cell phone, 937-478-9556. Thank you for your attention to this matter.

Sincerely,

David S. McKenna, MD
Clinical Associate Professor

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December 11, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonel Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Dr. Edwards:

I am writing in support of Dr. Mares to continue in our OB/GYN residency program.

I am volunteer faculty and have worked with Dr. Mares on many occasions and have never witnessed performance or behavior that would warrant dismissing her. I also do attending call two to four times a month which has allowed me to work closely with her.

I have noted that at times she has seemed aloof and/or depressed. I am not sure what definitive action has been taken to help her. I serve on the Physician Effectiveness Committee at Miami Valley Hospital. When we identify a problem with a physician, there is a process by which that individual is referred for professional help and monitored. It is specific and defined, not recommended, not just a mentor, etc. That is what we do for a staff member, I would hope we could do as much or better with a resident we have committed to train.

I have asked around about this matter. Nurse managers, nurses, fellow residents, none of who supports her dismissal. My experience is when we truly have a bad egg, the good riddance sentiments are unanimous.

I suggest we implement a defined action plan to help this resident we committed to train. This is a person who has worked hard her whole life to get to this point. She will not be able to find an R4 position somewhere else. We need to be sure with have exhausted every effort. I'm not sure we have.

Sincerely,

J. Scott Bembry, MD

Miami Valley Hospital
Premier Health Partners

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12 December, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonol Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Provost Edwards:

I write this letter in strong support of Dr. Jacqueline Mares, to appeal for her reinstatement as a chief resident to complete her training. I would like this document to be submitted as a testament to her character, knowledge, and clinical skills as a provider of obstetrical care. I have personally known and worked with Jackie since she began her residency at Wright State University Department of OB/GYN in July, 2016. During this time I have been a witness to her exceptional knowledge base and growing personal/professional skills. I have seen her develop from a reserved new resident joining an already established class of interns just beginning their second year into a capable and intuitive physician who has integrated seamlessly into her class while continuing to evolve and grow in the difficult environment of an OB/GYN residency. She has a unique combination of natural intelligence combined with humility, empathy, kindness, and the quest for knowledge in order to provide her patients with the most accurate and appropriate care for their situations.

Jackie has always stood out to me; not just in her class of five residents, but in my fifteen years of teaching residents from multiple medical schools and in different hospitals throughout the U.S. She is clearly well-read, as she has a broad and impressive knowledge base. Whether I am rounding on the antepartum service, staffing the high risk obstetrical service, or giving a lecture - Dr. Mares often knows the answers to my questions or already has an evidence-based plan of care in place for her patients. Due to her solid fund of knowledge, she frequently has thoughtful questions about areas of controversy; the 'grey zones'. Together we have looked up the answers to questions that she raises. This curiosity serves her well when it comes to coming up with thoughtful solutions to clinical questions where there is no clear answer.

During her first year in our program, Dr. Mares and I took care of a very ill and difficult patient. 'Ms. Doe' had a long history of substance abuse and was being cared for in the inpatient setting for complications stemming from intravenous drug use. I witnessed Jackie take ownership of Ms. Doe and treat her with amazing kindness and empathy (and also her dry sense of humor). Several more patients with similar stories ensued, which inspired Dr. Mares to put together a case series

on these patients and to initiate a relationship with an attending cardiologist who co-managed them. The three of us worked together to put a paper together which Jackie submitted for publication.

In all of my encounters with Dr. Mares, she has exhibited a commitment to her patients and a desire to practice medicine which is current and evidence-based. I have known her to challenge information that she comes across; I have always seen this as an effort on her part to understand what the situation at hand is, and to ensure that the assessment and plan being executed for a patient is the correct one. I find this to be an essential character for physicians - the continued pursuit of knowledge in the endeavor of patient care.

In summary, Dr. Jacqueline Mares is an intelligent, caring, and competent OB/GYN resident who has exhibited strength, courage, and growth in the more than two years that I have known her. I am struck by her combination of natural intelligence, curiosity, hard work, humility, and kindness towards her patients and co-workers. I am more than happy to discuss her qualifications at any time and I strongly support her reinstatement into the residency program in order to allow her to complete her training.

Sincerely,

Samantha Wiegand, MD,
Clinical Assistant Professor, Dept. of OBG, BSOM, WSU
slwiegand@premierhealth.com

Miami Valley Hospital
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December 12, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonel Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Dr. Edwards:

I have had the pleasure of working with Dr. Mares as an attending physician on the Maternal Fetal Medicine Service since her arrival at Miami Valley Hospital as a second-year resident. I find her to be a very competent, compassionate, and intelligent physician. I strongly support her appeal to be reinstated as a fourth-year resident in Obstetrics and Gynecology at Wright State University.

I am well aware of the events surrounding her firing and the events that led up to it, both from personal communications with Dr. Mares and communications with persons who were involved in her defense. I had the opportunity to review the transcripts from her hearing held in front of a three-person panel, which took place on November 7, 2018.

I think that the circumstances of Dr. Mares need to be reviewed very carefully. I am certain that you now do have in your possession all the pertinent documents. There are a number of problems that are easily extracted from the evidence available. However, there are two issues that are especially egregious.

First, in my view, the judgement that was passed by Dr. Dunn to overturn the recommendation of the panel is not supportable by the available facts. If there are other facts that support her firing but were not made available to Dr. Mares and the three-person panel at the time of the hearing, then the rules of due process were grievously breached.

Second, when you review the course of events that are pertinent to this case, you will find that there were some failings on the part of Dr. Mares. However, she did show evidence of continued improvement and was functioning at a level, which was appropriate to her level of training. Firing Dr. Mares on October 4, 2018, in her fourth year of residency and essentially only two months after she was told by her program director on August 29, 2018 that she was doing well

and would be off her probation by the end of the year, is unforgivable. The only circumstance that I can imagine doing this is if Dr. Mares presented danger to her patients. There is no evidence of this being the case. Even if such evidence exists, the fact that it was not shared with Dr. Mares prior to her firing is equally unforgivable.

In summary, from the available evidence of which I am aware, the due process has failed Dr. Mares and she should be reinstated. Purely from the human standpoint, it is hard to fathom how these decisions could have been made by a "compassionate" group of people.

Sincerely,

Jiri D. Sonek, MD, RDMS
Medical Director, Maternal Fetal Medicine, Ultrasound, and Genetics Center
Clinical Professor, Wright State University Boonshoft School of Medicine

Miami Valley Hospital
Premier Health Partners

The Center For Maternal-Fetal Medicine, Ultrasound and Genetics
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December 11, 2018

Susan Edwards, PhD
Executive VP for Academic Affairs & Provost
University Hall 256
3640 Colonel Glenn Hwy.
Dayton, Ohio 45435-0001

Re: Jacquelyn Mares, MD

Dear Dr. Edwards:

I am writing in support of Dr. Jackie Mares' appeal to you, for reversal of the Dean's decision to reject the recommendations of the review panel. You truly have the opportunity to change the course of an individual's life in a very positive fashion.

I realize that you have been inundated with numerous documents discussing Dr. Mares' tenure as an OB/GYN resident. As a member of the review panel, I was afforded greater than 10 hours for intense evaluation of this material. One compelling topic which was discussed at length during the panel's briefing was the issue of burnout. Unless you have had the opportunity to review the transcript of the panel's hearing, you might not see much documentation of this subject.

Almost all of Dr. Mares' dysfunctional behaviors that warranted the disciplinary actions are components of the diagnostic criteria for resident burnout. This was never considered by the residency director, clinical competency committee, or department chairman as a probable explanation for Dr. Mares' numerous problems. For this reason, appropriate steps to best help this resident were never implemented. This was attested to by the Department Chair, during the review, when Dr. Yaklic admitted, "We failed Jackie."

Dr. Mares fully acknowledged that her behaviors and communication skills were unprofessional and needed serious attention. She was never given any formal guidance in how she could improve in these areas. Nevertheless, on her own, she was able to significantly improve the scores of her medical student evaluations. This objectively supports her readiness and ability to make change. She was and she remains teachable.

From the accompanying letters of support from both faculty and Jackie's peers, it's apparent I'm not alone in my assessment of the young physician's value to our department and women's healthcare in general. It is my humble opinion that the system has truly failed this individual.

The recommendations of the review panel are not "an easy row to hoe" for Dr. Mares. Clinically, she is exceptionally competent. Her patients receive excellent care. There is little risk to the University and Department of OB/GYN to allow her to finish her residency. She has a group of dedicated faculty and peers to support her in meeting all the goals set before her.

Thank you for your time and consideration of this individual's future. Please free feel to contact me if you have any additional questions regarding Dr. Mares.

Sincerely,

Christopher S. Croom, MD
Chairman, Ethics Committee, Miami Valley Hospital
Clinical Assistant Professor, WSU, Dept. of OBG
Cell: 416-4565

DUE PROCESS HEARING

* * *

In re: Dr. Jackie Mares

TRANSCRIPT OF PROCEEDINGS

* * *

DATE OF HEARING: Wednesday, November 7th, 2018

PLACE OF HEARING: Miami Valley Hospital

* * *

ATTENDEES:

Albert Painter, Psy.D
Melanie Glover, M.D.
Jackie Mares, M.D.
Ted Talbot, M.D.
Jerry Yaklic, M.D.
Lisa Boydston
Stacey Poznanski, D.O.
Linda Barney, M.D.
Christopher Croom, M.D.

* * *

EXHIBIT C

DR. PAINTER: Dr. Talbot will begin by presenting the program's reasons for termination. Dr. Yaklic is here as the chair supporting that and also presenting information and -- and data.

During this proceeding, the panel may ask anyone anything at any time, okay? So if you could -- if there's a question, we'll have -- Dr. Talbot's presenting about any of the information, you may ask him. The same thing with Dr. Yaklic.

During Dr. Mares' presentation of her reasons for appeal, the same thing, you may ask her any questions that you may have.

And, of course, Dr. Mares, you can ask Dr. Talbot and Dr. Yaklic anything as well.

So does anyone have any questions? What we will do after both parties have presented and you all have exhausted the questions that you have about the information that's been presented, I will dismiss everyone except the three of you.

In the past, we have a chance here to discuss the information, discuss your thoughts about it, your opinions about it and we'll try to come with a conclusion.

It does not have to be unanimous.

Two of three will constitute a quorum in that respect.

I also want to make it clear that what you -- your task here is not only to gather information and draw a conclusion, but to make a recommendation to two people, and those two people are Dr. Dunn, who is the school of medicine dean, and in this case, Mr. Maiberger, who is the CEO of Miami Valley Hospital that's delegated his role in making a decision about that recommendation to Dr. Zryd, who is the chief academic officer for Premier Health, and is very familiar with -- as all of you know, very familiar with residency functioning having been a resident program director for, I think, fourteen years.

So we felt like she would, as an executive for Premier and for the hospital, fill that role more appropriately, if you would.

So before we begin, does anyone have any questions? I'll be glad to do the best I can to answer. Do you need anything else from us before we start?

THE COURT REPORTER: No, just make sure everybody keeps their voice up.

Speak up. All right. I will --

without any questions -- and if you have questions as we move through this, please just bring them up and I'll do my best to answer them.

So, Dr. Talbot, I'm going to turn the floor over to you.

DR. TALBOT: Okay. Thank you. I will skip a lot of the introductions, but just to mention that I have been the program director since July of this year filling in for Dr. Galloway who has been program director for eight years.

I was his associate program director from 2014 until I took this program director position, and also from 2016 until 2018, I was the chair of our clinical competency committee which advises the program director.

So once I became the program director, I could no longer serve on the clinical competency committee.

I have been a fully affiliated faculty member since March of 2012, and I have had privileges here at Miami Valley Hospital and been a clinical faculty member dating back to 2007, so I have worked with residents quite a bit.

Dr. Mares joined our program as a

transfer in as a second year resident, and this is documented in her resident file. She came from a program in Long Island.

If you could pull up 30 -- page 37 and 36 of her resident file and put it up there. By May of 2017, there was concerns from the rotations at Wright-Patterson Air Force Base and Miami Valley Hospital to warrant a letter of warning from Dr. Galloway as recommended by the CCC.

Areas of concern were patient care, practice based learning, interpersonal communication and professionalism.

And on the bottom of that if you go down to you will need to show, he at that time said you will need to show significant improvement in the core competencies listed above.

In the next paragraph it says you risk not advancing past your current level of repeating this year or being dismissed from the residency program. And Dr. Mares signed it.

The next -- so that obviously did not happen or we would not be here today. So in June of 2007, there is an incident I will just briefly touch base on with Dr. Mares refusing to see a

preterm patient -- preterm pregnant patient who was having vaginal bleeding.

And doctor -- her chief had asked her to evaluate the patient and she said -- instead told the nurse to evaluate the patient.

The patient ultimately delivered and Dr. Mares did not want to be any part of that delivery. So Dr. Galloway attempted to talk with her, but she did not talk with him and left.

Then they later talked in the afternoon and he recommended a five day mandatory leave of absence. In addition, he had urged her at the letter of warning meeting and this meeting to seek evaluation from a physician to assist her if there were physical or mental health concerns affecting her ability to perform as a resident, in other words, fit for duty.

She was provided a phone number for Premier Health employee assistance program offered -- offering confidential assistance to employees and conflict management and other work-related problems.

Then in November of 2017, doctor -- this is on page 25 in that. Dr. Galloway and Dr. Barhan, our student clerkship coordinator, had met

with Dr. Brenda Roman and Dr. Painter regarding unprofessional interactions with medical students.

It says there were several comments that related to abuse of medical students by residents related to verbal and unethical behavior. Dr. Jacqueline Mares was one of the residents mentioned in the comments and -- section of the evaluation.

Dr. Mares was formally notified of this results and it's unacceptable performance of professionalism related to medical student interactions.

I would like to fast forward to a six month evaluation that they had in January where Dr. Galloway mentioned -- met with Dr. Mares and they discussed that the main concern with Dr. Mares was her self-knowledge, lack of confidence and the lack of desire to pursue clinical practice after residency, and that she was offered again and declined access to counseling or professional counseling at the time, but was aware that it was available.

In March of 2008 (sic), March 8th, that is page 13 and 14 in the -- on the -- in her file, she was formally placed on probation by Dr.

Galloway.

There were three main reasons for the probation, which I would like to discuss. The first was concerns related by faculty from Wright-Patterson Air Force Base and that -- about a lack of participation in the operating room, concerns about poor attitude interfering with patient care, and one example was cited at morning rounds, instead of a formal checkout of each patient, she said everyone is doing fine, and handed the list to her colleague and left.

The second concern that placed her on probation was an incomplete research project that she had with less than two months from her resident research day.

Dr. Galloway and Dr. Maxwell sent her an e-mail of these concerns, this was on page 18 in the file, saying that there was little data and little recruitment and little time to complete it.

Dr. Maxwell asked me if I was willing to allow her to present preliminary data that we had on a study relating to barriers to prenatal care, and I -- this is an example, I think, where I more than advocated for her, so I helped her

out.

We let her present the data and meet her minimum necessary requirements for research data.

Dr. Maxwell has tried to continue the project with her with little success, and ultimately over the summer took her off the project. I'm not pushing it further because I still feel she meets the minimum requirements for the research component to graduate.

But the most important reason for the probation was the continued poor evaluations and remarks by medical students that continued from the January to June, 2008 -- '18 segment.

And I -- this is what you guys have, and I want to go to the second page where -- the very top one that says, Jackie -- it's Jackie Mares, we don't have a Meyers in our program. Very disrespectful in front of patients and interns -- or to intern during delivery to the point where she overtook the delivery and did a vacuum extraction without gloving, gowning or washing her hands to prove a point.

She yelled at the intern the entire time, even when Dr. Galloway is in the room. She

disrespected the attending in the situation as well saying that she was in charge and his opinions were inferior to hers.

Another one halfway down the page says Dr. Jackie Mayers (sic) was utterly disrespectful to students, attendings, nurses and other co-residents on multiple occasions.

Oftentimes when I was assigned to high risk, there was a senior for the team. She would not let me work with her. Further, she was disrespectful to her senior resident on the team at the time, Tony. She was swearing at him at one point over something ridiculous.

She was also rude to nurses, had an attitude. Acted like they were dumb. And then at one point, I was trying to help her by starting a history and physical note for her as she had asked me to.

Then I was called to a delivery, thus I pended the note. When I returned, she had complained about me to one of her seniors. Made it seem like I hadn't done what I was supposed to.

She later told me that I ruined her entire note. I was embarrassed to be around her.

And finally, Dr. Mares was very unprofessional. She disregarded attendings' instructions sometimes and was rude to them.

She blatantly told Dr. Croom that she did not read and wasn't planning on it when he asked her what she had been reading and learning about.

She told me that I took a patient that was too complicated for me and did not even give me a chance to try to follow them. She just wanted me to follow patients that were simple.

There are many more -- several more, but these are the most salient ones.

So it became clear with me taking over the program director position in the summer, that I had talked to Dr. Yaklic and that I would be meeting with her periodically as required on probation.

And our first meeting was April 20th. That is on pages 11 and 12 in her resident file. And basically at the -- on the April meeting I told Jackie that I was starting over with her. This was a new fresh perspective. I was giving her a clean slate and I wanted to start from the beginning with what we -- I mean by

professionalism.

And so I talked to -- I meant treating others with respect and honesty, a diligent work ethic and attempting, when at all possible, to not outwardly vocalize frustrations to the extent that they become common that could deceive as -- be perceived as hurtful to others; expressions of anger, frustration, et cetera.

Then we had informal meetings in the -- over the summer months. In July, I remember in the lounge off labor and delivery she discussed with me her intention that we wanted to do a missions trip to Africa, I believe, and being in a remote site, she would have to be off of probation and what did she need to do and when could she be off probation.

And we had talked about late in this calendar year, and that the main issue holding her back was professionalism.

And I even remember relaying an instance where I used an example of a resident I worked with that would get pages in the middle of the night, wake up, rant off ten, 12 expletives and then calmly answer the phone. This is Dr. Paley answering a page, and we chuckled at that.

And basically whatever somebody needs to do to vent and then not have it carry into their interactions.

And then Dr. Yaklic and I, in August, were called by the medical school to answer to some of these comments that were in the first half of the year, as there is sometimes a lag, and we more than went to bat for her.

We had discussed that we felt maybe Dr. Galloway didn't emphasize it enough, that we really did, and that fortunately from the student clerkship, I was able to get a batch of evaluations from July of this year that showed that she involved students within the OR and did some teaching, and so we advocated for her.

And I relayed that to her at her August 29th meeting with me, which I thought was an overly positive meeting, but then, unfortunately, the wheels come off from here.

And I have several e-mails and examples coming in these last few pages of your little packet that I gave you.

The first instance was just two days later after our meeting, I was made aware by Dr. Madison of an incident where the OB service was

consulted on a patient with -- a pregnant patient with a appendi -- or not appendicitis, pancreatis, and Dr. Mares called into the operating room to discuss with their chief resident, and she was extremely rude to the nurse that took the phone call, the chief resident and the attending, and they brought it to Dr. Madison, our faculty's attention.

And Dr. Madison confronted her about the situation and reported Jackie responded that she knew she had exploded and her behavior was out of line and stated that she apologized to the chief resident and took herself off the patient's care team.

And while that might seem appropriate in this situation, this has become a theme when relations go south is that Dr. Mares excuses herself from the teamwork care of the patient.

So this behavior was deemed inappropriate, and Dr. Madison told her that if she had unresolved concerns regarding patient management, that the AO is a good impartial third party.

The next incident is in the presence of Dr. Yaklic on morning report. We -- the night

team was managing a psychiatric patient that likely had psychosis, and had a mother that also had violent tendencies, but it was deemed that the patient would need a C-section because she wasn't progressing in labor.

And in -- with morning report, five or ten minutes into it, the full team of residents, students, nurses, Dr. Mares -- and this verbiage may not be exactly, but this is what I was told, that she used profanity directed at the medical illness using an adjective before the word crazy, and that adjective described the guano of a flying male. I am not touching her. You all can do the C-section, I'm going to clinic.

And so Dr. Yaklic, I think -- I don't want to speak for him, but wanted damage control, he decided not to escalate the confrontation and said, well, if you have other things to do, we will take care of this patient, and he did the C-section with a different resident.

And then lastly an incident I was involved with as well as another faculty member, Dr. Kindig, and she wrote to me, and so that is also in your packet at -- let me find it. The page I believe is page five.

On September 23rd, I came on call to relieve you at seven a.m. You are aware of the case that was handed over to me that day. The patient was 38 weeks pregnant and came to the hospital with severe left-sided pain.

She had been observed in another hospital in Lima and discharged, but she continued to have pain, and so came to Miami Valley for a second opinion.

I was told on report that there were some personality issues with our chief resident, Dr. Mares, and the patient's mother, a nurse from Lima.

With my involvement the night before, I can tell you the personality issues or clash were related to Dr. Mares had strongly advocated that the patient was acceptable for discharge.

The patient's mother and the father of the baby were not comfortable with that. It started to escalate, and so I came and evaluated the patient and felt that we did not have enough information to feel comfortable discharging the patient, so she was kept overnight.

Back to Dr. Kindig's account then, it says I was told in morning report that the patient

had slept through the night and was -- pain was improved so she was planned to be discharged, but that was not the scenario.

Upon examination, she was very uncomfortable, enough that I could not palpate her abdomen on the left side. I left the room and called the chief resident, Dr. Mares, asking her to come see the patient with me and bring the ultrasound machine to evaluate.

She declined by refusing and stated she was not going to have any more encounters with this patient. I suggested her mother was not here and she told me to call the third year, who did come.

They saw and evaluated the patient, and after discussing options, they decided to do a Cesarean.

Dr. Mares stated that she would not be part of the Cesarean section. At the time of the Cesarean section, they found a small abruption on the (inaudible) globe on the side of her pain and an abnormal cord.

Dr. Kindig discussed these findings with the team. Dr. Mares did not respond. Ultimately the patient and family were happy with

her outcome, but they did state that the intern and Dr. Kindig were the only ones who evaluated the patient by doing an examination, that Dr. Mares did not touch the patient, just argued that she needed to be discharged.

Dr. Kindig wrote my evaluations of Dr. Mares have continually shown her attitude and professionalism are inappropriate. I am unable to talk with her in person about her actions as she becomes defensive and I am not her direct supervisor.

She also had concerns because Dr. Mares has verbalized to many people on occasion that she does not plan to practice med -- OB-GYN after residency, and that she had asked her that in order -- if she wants to pursue a job in the insurance industry, that she would need to be taken care of -- or she would need to do clinical medicine first.

Dr. Mares stated she would not be taking care of patients in the future. Dr. Kindig felt that this was a safety issue as well as one of professionalism. If she is not the OB-GYN physician taking full responsibility for the care of that patient, then she believed that this was a

risk to patient safety, and should there not be a backup provider, she feels for serious injury or death under her watch.

This matter also escalated to the point that the patient's mother and family registered a formal complaint against -- no residents in general, but primarily the senior resident, related to this interaction.

And when I found out more from the complaint, there were two things that stuck out. Dr. Mares and the patient's mother, it was -- it was escalating, and that -- there is some accounts from the nurse that the mother was treating Dr. Mares unfairly, but then she made some inflammatory comments.

One was that all women late in pregnancy are miserable, but we don't admit them for that. And, two, that should they elect to stay, they would have to pay thirteen thousand dollars per night.

And so Dr. Belcastro was concerned basically how we're counseling patients and the discussion of the patients.

So I had verified those statements with the nurse that took care of her that day. I

have since talked to all of the residents that were involved, and I did try to talk to Dr. Mares about it as well as did Dr. Yaklic and didn't get anywhere.

So my -- let me -- I'm trying to come to a conclusion here, that these incidents were discussed at the CCC meeting on October the 3rd, and this is presented in her file, and the concerns were professionalism, communication, patient care interaction, overall performance.

They reviewed evaluations and numerous recent incidents, discussed at length and posed serious concern for her overall progress through the probationary status.

Much debate was centered on the fact that she had verbalized she does not want to continue to practice OB-GYN, like we discussed, and they raised concern by attendings that she is going through the motions to graduation and presents a patient safety issue.

The two instances of her refusal to care for a surgical patient with Dr. Yaklic and Dr. Kindig were discussed, and a formal movement was made to remove Dr. Mares from the residency program. It was seconded. The official vote from

the CCC was six to two in favor of removal.

So the following day I met and had several conversations. I had conversations with Dr. Croom, her advisor, Dr. -- both Dr. McKenna and Croom had been advising her.

I had discussions with Dr. Yaklic. I discussed with Dr. Mares. I had her come in, and I asked her about those two specific incidents.

Her answers to me was, with the one, the patient had a knife, and that was why she couldn't be any part of that psychiatric patient.

And then the two, on the patient that was admitted where she had advocated for discharge, she said, well, you changed the plan, it's your -- the attendings had changed the plan.

And I thought, well, that answer doesn't hold a lot of water with me because residents are involved all the time with faculty where the plan may be changed and they continue to involve their care.

I really think probably the root of the problem was the soured physician/patient relationship with that patient and her mother, that when it escalated and ongoing care was needed, that was why Dr. Mares excused herself.

So with all of those, I decided to proceed with enacting the recommendations of the CCC for dismissal.

So just to summarize, there are deficiencies in professionalism, communication, interpersonal skills to the extent that they affect patient care and show a persistent and pervasive lack of respect for all of the following: The profession of medicine, medical students, resident colleagues, faculty attendings in and outside of our department, nurses and even patients.

Her behavior is inconsistent and unpredictable. It can be highly unprofessional, and thus far, it has been proven to be unfixable.

I fear the continuation in our program towards graduation that these instances will continue. In other words, past behavior is a predictor of future behavior.

Why the CCC, I believe -- and this is why the CCC had such concerns to vote six to two in favor of dismissal from our program, including members who had previously been strong supporters of her earlier in her training, such as the former program director.

My decision was very difficult in light of many things. One, I am just three months into my tenure, and this is the last thing I wanted to have to do out of the gate.

Two, we are short handed in that we had a chief transfer to family medicine and we have one that is on maternity leave, so we are currently at half our complement, but I cannot allow those reasons to affect this decision, and ultimately I have to defend the integrity of our resident program. I cannot turn a blind eye.

This is why I wore the white coat this morning, was that I do respect this institution, our medical students, our residents, my chair, our faculty, both on and off the CCC, and all of our sites, and I feel that I am acting in the best interests of the residency program.

I cannot allow this behavior to not only tarnish the learning environment, but to be perceived by others in our department that it is acceptable on my part, whether it be junior residents, nurses, patients or faculty physicians.

I do need the support of all of my faculty at all the sites, and I am also concerned with going forward and may have to justify to the

RRC of the ACGME in our self-study when we talk about our CCC and what recommendations we view and how does the program director respond, that if I had disregarded these strong recommendations, that I would not be doing our program, hence, myself, any good.

So with that, I -- that is the basis for my decision, and that's all I have for now.

DR. PAINTER: Questions for Dr. Talbot at this point?

DR. CROOM: Ted, three sort of -- I'll use the term the sentinel cases, that's not an appropriate term, but the cases that you cited; did Dr. Mares have the opportunity to explain her side of the story to you prior to those cases being presented to the CCC?

DR. TALBOT: I did not talk to her about them prior to the CCC. The biggest thing was the -- the last case where I talked about the patient had needed a C-section that Dr. Kindig was on.

Dr. Kindig had talked to her. My main concern before -- even before the CCC -- because I was not made aware of this patient-lodged complaint and going to Dr.

Belcastro until the night before the CCC, the e-mails are the night before.

And so that morning I tried to talk with all three residents involved. I did not see Dr. Mares. Now, maybe I missed her. The attending sheet may show, but I talked to the other two residents involved, and mainly used it as a learning experience.

I -- as far as the -- the -- but my concern with her mainly was that she recused herself of taking care of this patient ongoing.

When Dr. Kindig -- it wasn't the problem that I changed plan or even that I advocated for admitting, because it wasn't a clear diagnosis at the time, there was some gray zones, and the patient's mother was being overly difficult.

So my concern was that in this kind of situation, you don't just say I'm out, you know, somebody else is going to have to deal with this, and so I felt that Dr. Kindig had addressed that.

I felt Dr. Madison had addressed another incident. In hindsight, you know, you can always put this as a learning experience, I could

always do better. I probably will going forward try to talk with every single event I can with the resident as soon as I'm aware of it happening, but that was not the case this time.

DR. CROOM: Well, as her mentor and someone who would want to help her in these situations, you know, neither myself or Dr. McKenna were notified of any of these. You know, Dr. McKenna found out at the CCC.

DR. YAKLIC: I think Ted's point is that these events all occurred very closely in time to the CCC meeting. I think the other piece of it is --

DR. CROOM: Well, some of us --

DR. YAKLIC: Each of them individually probably would not have risen to the point of a recommendation for dismissal.

The problem and the challenges six months into probation for unprofessional behavior at a time when Ted is hoping the CCC is going to say, when you see some improvement, let's take her off of probation; you're at the end of -- you're halfway through your chief year almost and we need to say that you've made progress.

We have not one, not two, but three

incidents that all occur within very short order prior to the meeting showing that -- really that the progress we thought we were making perhaps was not as positive as we had -- we seen and that actually it really just showed the same pattern of behavior that had been going on both prior to probation and during probation.

So it's -- you know, I wish that morning in my report I would have said something, but, again, it was like kind of shock, and you're going, okay, well, let's just downplay it, not a big deal.

It wasn't the event itself. Again, if you have a patient you can't deal with, clearly you should recuse yourself from them, but you don't do in that way in front of medical students, your -- your junior residents and your -- and your nursing staff, right? You do it on the side professionally.

And that's the unpredictability and the unprofessional outbursts that create these difficulties.

CCC includes representatives from nursing who continually complained about these issues and their ongoing nature.

I mean, I think Ted did everything in his power to try to advocate on her behalf, but at the end of the day, the data continued to show problems during that probation period and at a time where -- I mean, were Jackie a second year, it might be a different story, right? We could maybe talk about it. We have time to see if this is going to improve.

This is a chief resident who's had ongoing problems since her second year, has been warned, has been put on probation, and has still failed to make adequate progress.

I personally believe part of that is because she has a lack of commitment to the field. Whether you want to practice medicine or not is irrelevant when it comes to finishing this program, but if you're not committed to your specialty, you're not committed to change necessary to perform that obligation, and I think that's unfortunately the situation.

I think Mike did what he could do to try to remediate this, the short time he was program director and as an associate program director and as director or CCC for many years there.

It's -- I think it's an unfortunate situation here as well.

DR. CROOM: Well, I think it's my concern you had a letter basically saying that she was doing well in all areas, and then you said the wheels fell off.

Now, somebody who's on probation for what's a serious concern, every incident is important.

DR. TALBOT: Right.

DR. CROOM: I mean, to sit back and collect incidents -- I mean, to help someone, who is -- my experience is you don't know what you don't know, and if her behavior is inappropriate and it's not addressed at the moment, particularly with the people who have been sort of told, you're -- even your mentors, I just -- I'm a little -- when you say it was short order that the CCC met in October, these things were in August and September. You had plenty of time in my mind to have allowed us to address it.

DR. TALBOT: I think part of the frustration, not only with myself, but with other faculty is that when we approached Jackie and they had this issue at the base and they've had -- our

faculty has had it, that normally a person would say, oh, yes, I'm sorry, whatever, what do I need to do to get better?

Jackie would -- would like go into a shell and she wouldn't talk about it and she would say I need a leave of absence or give you a short answer.

It just wasn't -- it wasn't -- I felt like if you're really vested, you know, you really want to graduate, show me what do I need to do, how do I do it? Do I need another resident coming in every time I see a patient? Do I need an attending? Does the hospital need a coach? There was none of that. That was never suggested.

DR. CROOM: That was the value of a mentor. Mentors are --

DR. TALBOT: But it still happened.

(Thereupon, the court reporter interrupted the proceedings.)

DR. CROOM: A mentor is someone that establishes that safe relationship, and I can tell you it took some work to establish that, but it was established, and, you know, to deny the mentor the opportunity to discuss that case when there was plenty of time to do it, it -- you know, I

just wanted to make that point.

DR. YAKLIC: I will also say though, Dave was her former mentor. The two of you started working together and she gravitated more --

DR. CROOM: But Dave was never notified of this case.

DR. YAKLIC: -- she gravitated more towards you, and that was allowed by the department because we felt that that personal relationship was important, but Dave was involved in that process as well. Dave sits on our CCC. Dave was a vote --

DR. CROOM: But he wasn't notified of these cases.

DR. YAKLIC: Dave was a vote to dismiss, and in recent discussions, has continued to hold that opinion. I know you guys have had discussions. You can agree to disagree, but there was mentor input through that process.

DR. CROOM: He wasn't aware of those three cases. Prospectively, Terry, he didn't get -- he did not get --

DR. YAKLIC: It didn't change his --

(Thereupon, the court reporter

interrupted the proceedings.)

DR. CROOM: I just said that Dr. McKenna was not prospectively informed of these cases. He found out about them the day the CCC met. Not an appropriate time for a mentor to discuss the case.

DR. YAKLIC: And his point at the CCC was not let me sit down as her mentor and re-discuss these. It was a vote towards termination.

He didn't feel that additional discussion -- and I don't want to speak for Dave, okay? But Dave had the opportunity at that meeting to sit there and say, I believe we need to go back and talk to Jackie, I believe we need to do more.

He felt that he could make a decision at that point and his decision was to terminate her.

And I -- like I said, I don't want to speak for Dave, okay? But -- but his vote, I think, speaks for itself.

DR. TALBOT: And I don't know how often she was --

DR. CROOM: And then what it was was

it a secret ballot --

DR. TALBOT: No.

DR. YAKLIC: No.

DR. CROOM: -- is what they told me, so I don't know.

DR. TALBOT: No, it wasn't.

DR. CROOM: Okay. So he -- all right.

DR. TALBOT: I don't know that he was still meeting with Jackie regularly. He did say at the CCC that he had wished that you could have been there, but you were out of town, but in that same instance, in that e-mail from Dr. --

DR. CROOM: Well, I wasn't out of town.

DR. TALBOT: You weren't? I don't know.

DR. CROOM: No, I wasn't.

DR. TALBOT: But he just said he wished you could be there, but in that same instance where she -- that Dr. Kindig relays that she had said that that morning, Dr. Mares was arguing with Dr. McKenna about management of a high risk patient.

So I don't know. Maybe that -- that

relationship had soured. I don't -- all I know is that he -- when he has talked to me, he has said the bad Jackie can be pretty bad, and I think that's his concern, what ultimately led to his vote.

I wasn't going to get into who voted which way on the committee, other than to say that those that had prior -- previously supported her strongly no longer did.

DR. BARNEY: Did the resident avail herself of any of the opportunities for professional help over -- since --

DR. YAKLIC: Not that we're aware of.

DR. TALBOT: No.

DR. POZNANSKI: Was it ever mandated?

DR. TALBOT: It was not mandated, and actually I don't think it can be mandated. I --

DR. POZNANSKI: I didn't think so.

DR. TALBOT: Yeah.

DR. PAINTER: You can do a fitness for duty, which is a different --

DR. BARNEY: Right.

DR. POZNANSKI: Was that -- can that be mandated?

DR. TALBOT: It can be strongly

encouraged, which it was back in the letter of warning --

DR. YAKLIC: Strongly encouraged.

DR. POZNANSKI: But not required.

DR. TALBOT: -- it would have been on the probation.

(Thereupon, the court reporter interrupted the proceedings.)

DR. TALBOT: I had mentioned that over the summer just -- not in saying you should do this in the summer. Do you feel like you're having issues with professional anxiety? (Inaudible).

I don't think it's that. I think it's more a personality and a difficulty controlling anger with frustration or something that doesn't go as she is anticipating.

DR. POZNANSKI: I have a -- kind of a side question. If a resident does not take their Boards after completion of the program, how does that affect perception of the program or numbers?

I know if they don't pass, obviously that's reflected. If they don't take the Boards.

DR. TALBOT: The ACGME just requires that of our graduating residents, 80 percent have

to take the Boards, and of those that take it, 80 percent have to pass. If you do not have that, you get a citation. So -- and that's when they graduate.

So somebody could be -- and the reason I would say 80 percent is somebody could be out on maternity leave or something else and not take it for six months or whatever and then the program won't get penalized, but obviously we encourage all of our residents to take it.

And if we -- you know, if we have six, we can have one and still meet the 80 percent. If we have less than that, not necessarily.

DR. POZNANSKI: Right. I mean, it just -- it begs the -- the question comes to mind that with her indicating her lack of desire to go into clinical work and potentially not even taking the Boards, how that affects the program and whether that plays into a decision to terminate.

DR. YAKLIC: It -- it clearly can have a negative impact on the program.

DR. POZNANSKI: Sure.

DR. YAKLIC: I don't think it plays directly into the decision to terminate. I think

if that were the only incident, clearly we would not have terminated Jackie. Desire to practice your chosen specialty is not something we can necessarily mandate, I mean, once you enter the program. We -- as Ted mentioned, one of her classmates left and went into family medicine, you know.

So, I mean, clearly that's okay. I think what it really reflects to me is, like I say, a lack of commitment to the specialty, which I think is a -- part of the reason for her lack of motivation to change.

On numerous occasions her statement was the only reason I'm finishing the program is because I don't want to be an imposition to my classmates. Well, you're not going to have the motivation to change your behavior if you're not really committed to what you're trying to accomplish, and I think that was -- that was my ongoing concern.

I mean, I think you need to make the commitment and make a commitment to change your behavior in order to successfully complete that commitment.

DR. CROOM: Is there any question at

all about Jackie's work ethic? I mean, you've mentioned these cases where, you know, she has chosen to not be involved. In terms of her work ethic.

DR. TALBOT: The only example I have of that is the research project. That was put together at the last second, and since she's completed that presentation, Dr. Maxwell several times has tried to get her participation in actively treating patients or helping medical students, and nobody got responses from her and they took her off of the panel.

So I wasn't pushing that. As again though she met -- she's checked that box for the resident research project, but that's the only thing with respect to work ethic.

She shows up for her shift. You know, she doesn't say I'm not seeing this patient in clinic, you know, et cetera, et cetera. I don't -- that's not a concern.

DR. BARNEY: Do the junior residents have the opportunity to evaluate the seniors in your routine evaluation process?

DR. CROOM: No formal evaluation, no.

DR. BARNEY: Have there been any

other, other than the direct inferences where residents have stated --

DR. YAKLIC: Other than junior resident complaints?

DR. BARNEY: Yes. Yes.

DR. YAKLIC: Formal and in writing, no.

DR. TALBOT: And I have witnessed the junior resident mistreatment even -- even in this -- August our intern, Dr. Cook, she berated her about having the history and physical for a nine o'clock C-section not done by seven a.m., when there would be time after the rounds, and brought that resident to tears, and I said, Jackie, this is one of those situations where you need to back off.

This can be done afterward. You pulled her from morning rounds and learning to go complete this history and physical.

And so I felt -- I apologized on the -- our intern's behalf, and I did not -- I calmly recommended to Jackie that this is one of those examples we're talking about where you need to back off a little bit.

DR. POZNANSKI: Has there been or can

there be any resident input regarding termination? I don't know the answer to that.

DR. TALBOT: I'm not sure I understand the question.

DR. POZNANSKI: Have you sought any resident's input in terms of this decision?

DR. YAKLIC: Not formally.

DR. TALBOT: Now --

DR. POZNANSKI: I don't know if there can be.

DR. TALBOT: Now --

DR. PAINTER: It's -- it's not appropriate.

DR. POZNANSKI: Okay.

DR. PAINTER: Obviously on the information that is brought forward anecdotally or, you know, in an instance, obviously it can be shared, but in terms of should they be terminated or not from another training program, no.

DR. POZNANSKI: I didn't think so. I was just curious.

DR. YAKLIC: Especially not if you're a chief resident.

DR. POZNANSKI: Sure.

DR. YAKLIC: I mean, if it was a

junior resident, you could argue that their chief's input would be a very important part, and I'm a fan of 360, I like that we actually have the formal evaluations from juniors, that's something we might want to talk about, but I think at this point it would be inappropriate to ask them.

DR. POZNANSKI: I just didn't know if through the process there had ever been any formal residents' involvements in any of the discussions.

DR. YAKLIC: We do have chief residents that sit on our CCC. So, I mean, which in some of the earlier events when she was a second year or third year, there was chief input, but -- so that's through that process.

DR. TALBOT: They leave and --

DR. POZNANSKI: They were.

DR. TALBOT: -- we discuss their class and they don't -- they don't vote.

DR. POZNANSKI: Similar to what we do. I was just curious.

DR. YAKLIC: And they give input into the junior residents, but they don't get to see that obviously.

DR. BARNEY: Have you had any other residents on probation for professionalism

predominantly that were able to successfully complete probation and finish the program?

DR. YAKLIC: Not that I'm aware of.

DR. TALBOT: I don't believe so. Going at least back to the time that I've been associate program director, the only one that deals -- Dr. Hairwood (phonetic), but his was more knowledge, surgery, all that.

The one that had significant professional issues was dismissed her second year. And then we've had one that was held back one year and went to family medicine.

So, no, we have not had -- and then I guess in the deliberation with the CCC, you know, we have sometimes extended peoples' training.

Certainly if it's surgical competency, just needing more experience and more cases, we've extended training, but in a professionalism issue, I don't see where that helps.

DR. POZNANSKI: How many residents have been terminated or have been recommended for termination? I guess two different questions.

DR. TALBOT: Into?

DR. POZNANSKI: At all.

DR. TALBOT: At all?

DR. POZNANSKI: How many residents have been terminated from the program?

DR. YAKLIC: We've terminated one resident in the last -- well, Jackie was the second resident in the ten years that I've been back in the faculty.

DR. CROOM: That sounds about right, yeah.

DR. YAKLIC: And I don't think there was any in the four or five years before that. That would have been back even before I began, so there's only the two in recent times that I can think of.

DR. CROOM: The one from family medicine wasn't terminated, but --

DR. TALBOT: No.

DR. CROOM: -- he had repeated a year and then left.

DR. YAKLIC: And his was related more to clinical skill. I mean, he just -- he wasn't really a proceduralist and wasn't happy in his choice.

DR. PAINTER: Other questions for Dr. Talbot or Dr. Yaklic at this stage?

DR. CROOM: Just on a couple of the student comments. The one who related to Dr. Galloway, and we never saw a formal written assessment of that scenario, it seems like it's a pretty blatant thing that he might have responded to, and I know the one with my name on it, I don't know. I mean, I'm a --

DR. TALBOT: I don't know.

DR. CROOM: You know, I guess, you know, if it were presented to me as an insulting remark, like it's suggested here, I clearly would remember it, my skin is not that thick, and I don't even recall this, so I just --

DR. TALBOT: I don't know, but it's a perception with --

DR. CROOM: Correct.

DR. TALBOT: -- the student. So whether it was banter back and forth, what are reading? I don't read, you know, whatever. I don't know, but that -- their perceptions are often very different and they're the paying customer. They don't hold back. They're young and free-spirited and they -- they are in -- they're vested, you know, and --

DR. CROOM: I understand that, but,

again, when we're talking about making critical observations which affect someone's future, you know, it's just -- you need to qualify that, that's all I'm saying.

DR. YAKLIC: Well, medicine takes medical student evaluations very seriously.

DR. CROOM: Yes, I understand that.

DR. TALBOT: As you can tell.

DR. YAKLIC: And any -- in all honesty, I think he's -- give a view of what the outsider is seeing. Nursing evaluations are very consistent with the student evaluations. Again, kind of an outsider looking in.

You know, I don't think any of these incidents, again, by themselves -- Ted and I both went to bat for Jackie, and then there was pushback from the school of medicine to say that this was an action that we should be considering determination for.

This is a resident on probation that has continued performance issues, and we went to bat to say, we've seen some improvement.

We think there's a -- you know, some movement in the right direction. She's on probation. We should see how this continues to

go.

Again, with less than six months left to her program, you know, we now see a turn to the negative again. I'm not saying there isn't progress.

I think in the six months Jackie's been on probation, she has improved, but it's been, you know, two steps forward, one step back. One step forward, two steps back.

I mean, we -- I can't say -- you know, I wasn't at the CCC meeting. I was actually I think talking about medical student evaluations that day, but it is a scenario where I can't disagree with the recommendation. I sure can't ignore it when they came to me and asked my opinion.

This is a strong recommendation from the -- you know, a large portion of our faculty.

You know, in the last year, I've been much less clinical than I was previously, so I -- you know, I have my own perception, but I honestly can't say that that's what I would base a decision on when a large portion of our faculty, nursing, our medical students continue to say there's concern in the last six months of a resident's

tenure, I don't think it's something we can ignore.

Like I said, I think Ted has gone through this process and done everything he can as diligently as possible. It's a regrettable situation to be in.

I wish perhaps we had been more aggressive when she was a second year in expressing the importance of changing these behaviors, but it doesn't change the fact that we're in the last six months of her chief year, and there's continued significant ongoing concern about her ability to practice medicine independently.

I don't know that Ted -- I don't want to speak for him, but, I mean, he has to sign her certificate that says she's okay to practice.

In our discussions, he doesn't feel that's something at this point that he's going to be able to do. That forces your hand if the only alternative is to terminate her.

I mean, it would have been much easier for us to wait till January after we had our resident back off from maternity leave, but that wouldn't have been fair to Jackie.

I mean, we reached a point. If we can't take her off of probation, we only have one other alternative, and, unfortunately, that's termination.

DR. POZNANSKI: Were there any indications of these kind of professionalism issues from the previous program?

DR. TALBOT: If there were, they're not in her file, and Dr. Galloway admitted -- or, you know, accepted her, interviewed her and brought her into the program.

So we had a person that went into psychiatry after his internship here, so that's where that came down, but I don't know. Dr. Mares welcomed the circumstances of her departure.

DR. YAKLIC: And Mike has spoken, our previous program director, but there were no concerns raised at that time. Whether there were unraised concerns, I can't answer that question.

DR. CROOM: Just one other comment about one of the cases, and I understand that the concern is Jackie's not wanting to participate in the case, but in the clinical scenario, I've reviewed that case, and -- only because the attending was pretty critical that this was a very

sick patient.

DR. TALBOT: Can you tell me which case you're referring to?

DR. CROOM: The abruption. This was someone who was felt to be safe enough to just discharge from another hospital, and certainly someone who you clinically suspect is an abruption, and particularly at 38 weeks, you would never send out of a hospital.

I'm curious as to why someone would come to Dayton from Lima for a second opinion. I do know that that attending -- the critical attending is from Lima, I don't know if there's any connection to that.

There was no pathological support diagnosis of an abruption. There was not an abruption. There wasn't an abruption found at the time of delivery. Like I said, there was no pathological diagnosis of that.

You made it very clear, and I agree with you, it's a difficult diagnosis to make, and I have no problem either way it was managed, but the fact that it was presented in her case as something that it wasn't, I think it's important to point that out.

DR. YAKLIC: I think the key is, again, it wasn't a management decision that was the question. And clearly, we could argue back and forth whether or not there was a -- I mean --

DR. CROOM: No, I --

DR. YAKLIC: -- I don't think that's the point. It wasn't a management decision.

DR. CROOM: I'm not -- I -- that's how I opened that comment, but I think the point is that I wanted to make it clear that she did not make a mistake clinically. You can infer that from --

DR. TALBOT: And -- I'm not -- I am not accusing her of making a clinical mistake.

DR. CROOM: No, no. Dr. Kindig appears to have.

DR. TALBOT: Oh, okay. My -- I did not -- I felt I did not have a good diagnosis. I did not suspect abruption. She had no bleeding. She wasn't really contracting. The baby looked great on the monitor.

So all these things we were potentially worried about, I do not think -- but based on what I saw when I talked to the patient, I did not feel comfortable in sending her home.

And I didn't say, well, we may need to get more imaging and we may need to get more testing and keep you here longer.

I don't think that -- the family was fine with that. That was not the question, the -- the clinical decision-making and that sort of thing. It was other than --

DR. CROOM: And honestly, I was addressing the attending's comment because it sounded like she missed the diagnosis, and I wanted to make that clear, that that didn't happen.

DR. TALBOT: That was not my concern.

DR. CROOM: No, no, I understand.

DR. TALBOT: That might be Dr. Kindig's interpretation, but that was not mine.

DR. CROOM: But that's what you read to us.

DR. TALBOT: Right. Well, I read her account, yes.

DR. CROOM: Right.

DR. YAKLIC: Well, clearly the interactions with the family were a concern. I mean, why did they come? We're the region's leader. They came for a second opinion in a

tertiary care center and expected to get evaluated.

The -- you know, one of the complaints raised to Dr. Belcastro was she never laid hands on them, walked in the room, said they're going to pay an outrageous amount of money, which was not a fact, true fact, and walked out.

I don't believe that's what you're supposed to do in a tertiary care center when a patient comes in for a second opinion from a rural hospital --

DR. CROOM: I wasn't questioning that.

DR. YAKLIC: -- you're supposed to evaluate the patient. That's the unprofessional behavior that we're questioning, not what the diagnosis was or whether the -- I mean, for all intents and purposes, the patient, her -- the diagnosis could have been correct and the patient could have went home and everything could have been fine.

That's not the point. She came for an opinion and needed to be evaluated by the senior resident.

DR. CROOM: Yeah, I get that.
DR. POZNANSKI: If all of the professionalism, communication, interpersonal issues improved substantially or were there, would you be comfortable saying that she could practice as a clinician? Remove all the professionalism issues.
DR. TALBOT: You mean remove all of it?
DR. POZNANSKI: Right.
DR. YAKLIC: Just judging her clinical skills.
DR. POZNANSKI: Just purely clinical her ability to practice as a clinician in six months at graduation --
DR. TALBOT: Yeah, I don't think --
DR. POZNANSKI: -- could you sign that certificate?
DR. TALBOT: I think I could. I think the CCC would support that. That's not been the concern.
DR. POZNANSKI: Correct. Correct. I just wanted to clarify.
DR. TALBOT: But the concern has been patient safety and patient care based on the

professionalism inhibiting so much her ability to care for a patient, that it then does put a risk.

So what happens if I sign the certificate and she's out, and six months from now one of these interactions occurred? Is her partner every time going to come and be the one to see the patient or is she going to go to other members of the medical staff?

I don't know. This is a concern. So it's not the ability to decide what is the diagnosis and what do I need to do and do I need to know how to do it; it's all these other factors that play in that are preventing me from doing that.

DR. POZNANSKI: I just wanted to clarify the clinical versus the professionalism.

DR. CROOM: One other question in regards to medical students, if I'm not mistaken, someone from the university discussed with our residents, in general, issues with relationships to medical students, is that correct?

DR. PAINTER: I'll try to answer your question, Chris. We do and have for the last five or six years, a resident and teacher seminar for all of the incoming interns, and we -- and it's

about a three-hour seminar, and they're -- it's usually September or October, and we focus on adult learning, how that's different from -- you're not teaching third graders. How to present a patient.

The area as we call them microskills teaching, which is teaching on rounding and teaching at the bedside and teaching sort of on the fly, because that's where a lot of good teaching, you know, in the moment comes.

And then the fourth area is feedback, and that is how to give feedback to learners, medical students in this case.

So, yes, all of our residents are oriented as they enter our program to be able to do that effectively.

DR. CROOM: What I was speaking more specifically about is my understanding from what the residents told me was that some representative from the medical school discussed with our residents specifically their interaction with medical students.

DR. YAKLIC: With the core evaluations.

DR. CROOM: Yeah, and --

DR. TALBOT: I did -- I did on multiple occasions.

DR. CROOM: I guess my point is there was a culture of that among our residents that needed to be addressed.

DR. TALBOT: Right.

DR. CROOM: And it's not unique to Jackie.

DR. YAKLIC: I'll -- I'll speak to that. There clearly is a culture of that among our residents that we have been addressing for the past several years --

DR. CROOM: Right.

DR. YAKLIC: -- and I think it has slowly improved. I will say, you know, other residents are named in -- in student complaints.

None of them are named as frequently -- I mean, in -- over the -- in the past year evaluations, you know, over 50 percent of the named complaints were Jackie, and we have 24 residents.

Over half of the named complaints were Jackie, and the level of egregiousness, for lack of a better word, there was no comparison. She was unique in that regard.

DR. TALBOT: I would just like to say that obviously I'm picking this up, so I didn't have thought with the last part, because Dr. Galloway would have directly spoken with residents, but since I took that over, I was at a program director's meeting with no names identified for residents, but I read off all of the comments.

It was the good, the bad and the ugly, and we went through every single one, and afterwards I had residents come up to me and say, I know, I was up there, I know, and I know the situation. And sometimes I was like, well, you would not believe this student. This is all vengeance, you know.

And then other times, it was like I guess I wasn't perceived that way. So we did that. Then individually, Dr. Barhan and I -- we get quarterly these types of statements, and we have a -- if a new name surfaces, we meet with that person.

So we met with two second year residents earlier this month. I don't know that Dr. Galloway did that. I don't -- I can't speak and I can't change what happened in the past, but

I'm being proactive as much as I can be, because I don't want to keep dealing with this type of thing.

DR. CROOM: Right. And from your documentation, it sounded like you had an impact on Jackie from the medical student perspective.

DR. TALBOT: I think he did and maybe all it was was more emphasis on her, like this is an intolerable type of thing.

DR. POZNANSKI: When you had those conversations, what was Jackie's response to those complaints?

DR. TALBOT: Well, I think she said the same to you, but, yeah, I was pretty -- maybe she used the word bitchy to medical students and stuff and so -- but -- and the medical students' accounts, in fairness, it's more than just to the medical students, it's to nurses, it's to junior level residents, senior level residents, it's to faculty.

And I remember that instance where it was mentioned her senior resident, Tony, and Tony was upset about it. And another resident just said, well, that's just Jackie being Jackie.

And I thought, well, yes, that's true, but that doesn't necessarily mean that -- he was truly upset about it, and this is a guy that I never see really get upset. He's kind of happy go lucky and very popular amongst residents.

So I think -- like I said, I think as much as I could, I emphasized that that was a very key component in her coming off of probation, and I never would have gone -- I would have been -- had nothing to offer at the meeting with Dr. Roman in Dr. Painter's office in mid August with Dr. Yaklic if we didn't see improvement.

So I thought here, you know, we're making progress, but like I said, in my mind, that progress seemed to be short-lived based on the incidents.

DR. BARNEY: When you said there was improvement, was it lack of negative or was it truly positive, like this person's a good teacher or this person helps me with my work or --

DR. TALBOT: It was a lack of the negative.

DR. BARNEY: Lack of negative.

DR. TALBOT: And then also when they said before that they wouldn't involve her, she

wouldn't work with students. Then one had said she did involve -- they did involve her for that student in the OR and had done some teaching, so --

DR. YAKLIC: Because of the ongoing concerns, we had more frequent and more direct questions of our residents -- or of our medical students regarding resident behavior.

And so there was more direct questions of how was this resident with -- so, you know, there was some clear improvement, I'll say.

DR. PAINTER: Other questions at this juncture? You can come back again certainly after Dr. Mares make her presentation and readdress other issues or new issues with Dr. Yaklic and with Dr. Talbot.

So if we need to take a break, would somebody just send some sort of -- you know, I need a break for whatever reason.

DR. MARES: I would like to take a break.

DR. PAINTER: You want to take a break? Okay. We can take a break.

(Pause in proceedings.)

DR. PAINTER: Dr. Mares, I'll turn

the hearing over to you.

DR. MARES: Thank you. I'm going to have Dr. Glover, my acting advisor, to start off.

DR. GLOVER: So, Doctors, again, my name is Melanie Glover. I've started my 16th year as a physician here at Miami Valley Hospital.

I've also participated in clinical duties at Wright-Patterson. Because of my time here, I completed a residency and I also completed my fellowship here.

I've had a unique opportunity to be the one in training, meet a lot of students and also be an educator in the attending role.

Over this time, I've gotten to know residents from 19 consecutive classes. The 16th since my actual start here and the three that taught me, so my three senior classes. A total of 19.

And we all come from a lot of different places when we come here to train, and training is never easy for any of us. I know you know this.

When we get here, we all have our own unique challenges. And I feel like as I've gotten to know Jackie in her training, and especially

through this process, I'm convinced that when Jackie came to us, she was not broken.

We have spent a lot of time telling her otherwise. And it -- it pains me to be so invested in this program to feel like we failed someone so miserably.

I have long, personal relationships with almost every other attending in this program. Many of them have taught me. I have taught many of them, and many of the others I have worked side by side with as a colleague.

Of the newest faculty at Wright State, I don't have a long-standing relationship with Dr. Kindig, and on occasion, many people flip through the base, as is the nature of the base, and so sometimes I don't know them, but by and large, I have long-standing relationships with the faculty.

They're good people. They're good doctors, but I think in the case of Dr. Mares, they're making a mistake. Dr. Mares, as you've heard, is accused of having, quote, personality issues.

And one of my questions has been, has anyone ever really put forth the effort to get to

know her from what she came and the circumstances of her being here and to really understand who this person is.

I will be completely forthcoming. When I first met Dr. Mares, I was a bit put off. I found her a little hard to get to know, but instead of using that against her, I challenged myself to try harder to try to get to know this person, because certainly she was in a very difficult position to come from another training program that was completely structured in a different way than this one, and to enter the second year of this program, which is notoriously the most difficult one, and to have no family, no friends, no previous bonding with her resident class because she wasn't an intern with them.

To come to this place and be completely alone, and to be asked to catch up and to teach and to kind of fend for yourself.

Jackie, and she's -- in our conversations, she has affirmed this. She is an introvert, textbook definition, painfully so.

This young doctor struggles with micromanagement. It's a very intimidating sort of situation for her to be in, and she admittedly

becomes very frustrated.

When she's allowed to have a little room to breathe, her defenses come down and she's able to logically work her way through situations and function very well again, but she has admitted to me that micromanagement is something that she struggles with, and she would like to learn coping mechanisms to help be better under those situations.

She -- because of the way this type of management affects her, naturally she does not micromanage those that are working for her.

And so she has developed skills by which she cannot be on top of her junior residents and students, but by virtue of the EMR and our ability to call nurses and to call other residents -- and I've done this myself.

You can keep track of everything they do on a labor and delivery unit or on a medicine floor and not be there beside them. You can track them in the system, often the means by which she will supervise her team.

Dr. Mares being the introverted personality she is, she's not a villain. She's an empath. She feels more than I feel most days, and

I think I'm pretty empathetic. I have a big heart and I'm really sensitive.

She's got me beat on this one. She bonds with her patients in ways that are superior to almost every resident I have met in 19 consecutive classes.

Her ability to join them in their journey in the most trying of times is nothing short of exceptional.

I feel like as we've listened to the cases described and the stories being told, Jackie, it has been stated, has been given a chance to tell her side, and this much is true.

I believe my colleagues have given her the opportunity; however, I question whether those opportunities and those environments felt nurturing and safe to Jackie.

It's very difficult for someone to be told you're not doing something well. Especially to be told that -- or to be implied either way that there's something wrong with you and the way you work with other humans.

It's very hard then to find trust and be comfortable with the person who has delivered those statements to you.

I question to my colleagues their choice of mentor for Dr. Mares. The mentor I have known for sixteen years. He's been my teacher for four years of residency and three years of fellowship.

I would consider him a friend because he is my partner, and I know his personality quite well, and they're not a good fit.

He is a good person. He is a great mentor. He is a great role model, but it is not what Jackie needed. I feel like she would have been better suited by preferably a female mentor.

I think that could have helped let some of the defenses down, and I think it would have been more just to have a mentor who is not directly related to these evaluations that we have discussed and ultimately CCC decisions.

I would, myself, find it very difficult to completely trust and be able to confide in someone if I knew that they had that kind of leverage over my career.

That's my own personal feeling. And I feel like we, as a community of physicians, failed Jackie Mares when we did not give her an opportunity to connect with a role model who she

could potentially have a trusting relationship with and potentially work through some of the difficulties she was having.

Jackie's natural tendency when she's confronted or intimidated, and we all face this at different times, you choose whether you fight or whether you take flight.

Her tendency more often is to take flight and go into a protective mode.

And she has admitted this to me and she has openly expressed to me, again, that she would like assistance in learning how to not rely so much on that instinct, because she finds it difficult when pushed to go into fight mode, she's very misunderstood. It's an uncomfortable place for her to be in. She would like real coaching under these circumstances.

I have a lot of information from a he said she said perspective that we can discuss in this meeting regarding the different cases, and some of it I would definitely like to share with you.

But one thing I want to impress upon everyone is that not only have I expressed to you Jackie being in an especially delicate position

when she started our program, she was really expected to do for herself in ways I think were -- it was more than what anyone should ask of any resident in their program.

It put her in complicated situations with medical students and other residents. The program Jackie came from, they did not operate as interns.

This program is very different. When I graduated -- I'm sorry, when I advanced from my first year, I had performed one hundred and fifty Cesarean deliveries. That's a lot of operating.

Now with the numbers as they change -- as they've changed, they're not quite that heavy anymore, but nonetheless, the interns start their second year with a lot of surgical experience under their belt. Her program was not stratified that way.

Whenever you moved into second, third years, et cetera, you had rotations that were completely dedicated to be in the OR.

When she came here, instead of us being able to say to her, we understand that these are your deficits simply because our programs are structured differently, these are the things that

we are going to do to help you catch up.

Instead she was told you need to get your numbers if you want to advance, and if you have to, bump someone else.

I can't imagine how difficult it must be to be the new person trying to foster relationships within a residency program when everyone's looking at you with a critical eye to be in that position where you then have to jockey for cases.

Everyone here is under pressure to perform in the OR as much as possible. We all want to be good surgeons when we graduate, but to have that added pressure -- I haven't seen anywhere in the documentation where anything was offered to Jackie to set her up with a faculty or to ask a private provider if they would volunteer to spend time with her in a special -- a specially formulated rotation just to get her going surgically. That way she could be better integrated into the second year.

If there was that effort, I would love for that to be shared with the group, but I don't think it happened.

So there were those things that were

just technically very difficult for her to take on her own.

DR. YAKLIC: Now, you said we could ask questions as we moved along, correct?

DR. PAINTER: What I prefer is to let Dr. Glover and Dr. Mares do their part of the presentation that they have, and then ask questions afterwards as opposed to kind of breaking that up. So if you'll continue, Dr. Glover.

DR. GLOVER: Thank you, Dr. Painter. So I am concerned that there hasn't been enough proof in her records to convince me that we did what we could to help her catch up from a technical standpoint.

But what's more concerning to me is I've really come to feel like there's a dichotomy of expectations when it comes to the professional standards that we, as attendings, are upholding versus what we're expecting of our residents.

And, again, a lot of the things we're discussing today, there's a lack of objective data.

A lot of it's personal telling of a story, but I have no reason to think that Dr.

Mares would lie to me and tell me that another attending, in front of an ER full of physicians, nurses, residents, students; I have no reason to think that she would lie to me and tell me how devastating it was, during these formative middle years of her residency, for an attending physician in our department to stand there and tell her she is a fucking idiot. It is completely unacceptable, and I believe it happened.

And I think I have resident documentation that this incident, as Dr. Mares has described to me, can be supported. And I feel like what response came from the department was more of a coverup for that attending's behavior than it was to help her deal with such a devastating blow. Unacceptable.

And now we sit here. She's unemployed because we've told her she's not professional. What kind of examples have we set for Dr. Mares? If it's okay for me, as an attending, to tell her she's a fucking idiot and then apologize later and go through the coverup so it doesn't get all the way up to the provost and causes some real problems.

She was not broken when she came

here, but there are a lot of things, like what I've just described to you, that have happened that I feel like we have done to potentially break her.

And in this era of physician burnout, depression and suicide, I can't express to you how many days I have checked in on this doctor, is she okay? Do you feel like someone needs to intervene for her safety?

I would like to hope that Dr. Mares nor any of our other residents would ever contemplate a suicide whenever they meet their professional challenges, but I also feel like we need to sit here and be completely honest with ourselves and ask ourselves, is this a near miss?

I feel like this poor woman has not been supported. She has not been nurtured. She has been villainized.

And I feel like I've done too little on my part. I feel like I should have advocated for her more. I feel like I should have been nosier. I should have butted in. I should have asked more questions whenever it looked like difficulties were occurring, and I didn't. I have failed Dr. Mares in that respect.

But I have watched her grow. I have operated. I have gowned up with her. I've watched her hands learn how to perform.

I've watched her deliver dead babies and hold them and tell their mothers how beautiful they are.

And I've read cards from those patients expressing their thanks to her because she is a very good doctor and a lovely human being.

I have some things, if I may, that I would like to give you. Dr. Painter, do I have your permission to hand out some things?

DR. PAINTER: Yes.

DR. GLOVER: And I have copies for you too, sir. I apologize for all the sticky notes. I did not take my reading glasses to the store and I bought the wrong tabs. One for you, and, Dr. Painter, these are for you.

So for the three of you across the table in your blue or red folders, you will find an example of a patient letter to Dr. Mares, and this was a case that was managed here at Miami Valley Hospital.

There's also a copy of a family

letter from a patient who was cared for at Wright-Patterson Air Force Base.

You will find multiple letters of support that have flooded my inbox in the last few days.

Many of these are from fellow residents. The one on top is from Dr. Bembry.

Dr. Bembry is a hospital-employed physician, as I am, and I think his interest in Jackie's well-being is sincere and deeply rooted.

I don't know if you all know Dr. Bembry. He is a passionate man to the point of being bombastic at times, and he, himself, has been reprimanded for behavior in educational situations and has gone through the necessary steps to help restitute himself to become a better educator.

And he took his experience to genuinely make himself better and to help the people who he's volunteered to train. And so that's a little background on Dr. Bembry for that letter.

The others were -- I did not solicit any residents for letters. Like I said, they approached me and these landed in my inbox. And I

hope before you make the decision that you have to make that you will have an opportunity to read those.

Also in your folder that you're looking at, there's a letter from Dr. Madison. I refer to it as a letter of clarification.

Dr. Madison is the faculty physician who did her due diligence and informed Dr. Talbot of Dr. Mares' lack of professionalism on Friday, August 31st, 2018.

Dr. Talbot referred to Dr. Madison's written report, and the copy of the e-mail that you now have, you can see that it states, to whom it may concern: I would like to take a few minutes to embellish on the below e-mail I sent to Dr. Talbot two months ago.

When I spoke with Jackie after the incident with the general surgery team, it was clear to me that Jackie was remorseful and realized her behavior was inappropriate.

While the manner in which she handled the situation was unprofessional, her anger clearly stemmed from her place of trying to do the right thing for her patient and being her patient's advocate.

At this moment, I would like to add that this was an incredibly complex patient. I was actually the attending MFM the day that this boiled up, and I wish that I had been the one called instead of Dr. Madison, but that's a common confusion, we don't blame our surgical colleagues for not knowing who to call.

DR. POZNANSKI: May I interrupt for just a minute --

DR. GLOVER: Yes, please.

DR. POZNANSKI: -- so that I could follow along with you? Where -- which page are you looking at?

DR. GLOVER: It would be titled Madison. It's in your blue folder. Yes. So this patient was late preterm. She does not have a grasp of our native language.

She declined hospital interpretation. Had a supportive husband who was interpreting for her. So culturally, it was a more complicated case.

She had had multiple admissions and had gallstone pancreatis ultimately in the end.

And there had been some uncertainty as to how to manage her, because she was, like I

said, late preterm, and coming so close to that point with babies where sometimes we just try to conservatively manage, deliver the baby, and then do further interventions for the mom. So I know that had been complicating things.

But Dr. Mares, very intuitively, had looked at the clinical information and had begun to realize that not only was this patient miserable with these multiple admissions, but that she was sicker than she had been before, to the point where, with gallstone pancreatis, this patient was legitimately at risk for preterm birth.

She was at risk for significant maternal morbidity, but at this point also had significantly increased risk for maternal mortality.

And I, as the attending that day, pushed Dr. Mares very hard. Dr. Mares, please, let's get to the bottom of this. Please talk to them. Let's get a plan. I need to know when she's going to go to the OR. I'm worried, too.

So I feel like she was certainly in a high stress situation, that I participated in, and in hindsight, she realized that her behavior was

emotionally charged yet still inappropriate.

And she took it upon herself to apologize to the team and the nurse before she was even confronted, and I think that speaks volumes for her.

I don't know if she had the skills to do that under such a volatile situation when she first joined us as a second year resident, but clearly she had developed the skill set necessary to humble herself, acknowledge that she was mistaken and offer up a sincere apology.

So that's Dr. Madison's entry.

DR. PAINTER: Do you mind if I share these with Dr. Talbot and Dr. Yaklic?

DR. GLOVER: No, please.

DR. PAINTER: Then we will all be on the same page.

DR. GLOVER: Absolutely. I don't mind at all. Thank you for asking, Dr. Painter.

DR. PAINTER: Okay.

DR. GLOVER: If you would like me to pause, please just say so. I can see that you're flipping through those.

DR. TALBOT: I have a question --

DR. GLOVER: I'm sorry, I couldn't

hear you.

DR. TALBOT: I'm sorry. You had just said something earlier about you weren't soliciting letters --

DR. GLOVER: I did not solicit residents for their letters.

DR. TALBOT: You asked.

DR. GLOVER: I asked.

DR. TALBOT: Okay. That's fine. I just was confused.

DR. PAINTER: Just a point of clarification; I think everyone's reading. I want to make sure that Dr. Mares has a chance to speak on her behalf, so --

DR. GLOVER: Would you like me to continue?

DR. PAINTER: If you have more, yes.

DR. GLOVER: I have more.

DR. PAINTER: Okay. Please continue then, yes.

DR. GLOVER: Yes. I just wanted to be polite.

DR. PAINTER: I couldn't tell whether you were finished or whether you were --

DR. GLOVER: No, no, I was just

giving them some time.

DR. PAINTER: Okay.

DR. GLOVER: So in your other folder, I have included a couple of representative articles, and with your roles in leadership in resident education, I anticipate you've read far more about physician burnout and depression than I have, but I just wanted to point out to the committee that much of what is described in burnout and depression amongst physicians has actually been well-characterized by Dr. Talbot today; however, he has not mentioned the potential of burnout in Jackie.

In the first article titled Physician Burnout, its origin, symptoms and five main causes, it very clearly explains cardinal symptoms of physician burnout.

One being exhaustion. Another being depersonalization and another being lack of efficacy. I think every resident is routinely exhausted, but I think that's something that's really been pointed out as special to Dr. Mares, and her experience is how she's become depersonalized during parts of her training process. Particularly as signaled by cynicism,

sarcasm, the need to vent about your job and people involved in your job.

Certainly there are causes of burnout that are numerable. The big ones include the actual practice of clinical medicine, what your specific job might be and the demands of that job, but this author goes to the effort to also describe one of the top main causes of burnout is the conditioning of our medical education and also the leadership skills of your immediate supervisors.

So I certainly feel like there is potential that Jackie Mares was burned out. In fact, one of her junior residents, who is very young, but very insightful, even mentioned that in one of her letters.

One of her first impressions of Dr. Mares was that she was burned out.

So I feel like one of our junior residents recognized this, but we, as her attending physicians, potentially failed to recognize it and certainly didn't address it in a more constructive manner.

Our other article for reference is from Current Psychiatry. It's titled Depression

and Suicide Among Physicians. Predictors of depression in physicians as referred to in table one, the top of the list, difficult relationships with senior doctors, staff and/or patients.

I keep pounding away at this point because this is the reason that Jackie Mares has been terminated from her role as a physician in our training program, but I'd like to encourage you before you make your decision today to please look at her CV, look at the paper trail that followed Jackie before she joined us.

She was a mentor. She was in position to educate others, and she seemed to have a real passion for it, and it makes me question all of us in this room what happened after Jackie came here that extinguished that fire?

She had a natural drive to be a teacher and to teach others the things that she loves. She has an interest in neuroscience and psychiatry in addition to OB-GYN.

It's clear in her CV that she was passionate about sharing the knowledge that she had gained with others, and I don't expect someone to lose passion for a field they love simply because they become a resident. I think it's much

more complicated than that.

So I challenge you to ask yourselves if perhaps her own mental and emotional well-being could have played a role in this and if we were being appropriately supportive of her.

This article also refers to barriers for treatment. Many in this room may have -- I don't know your personal stories, I can only tell you mine.

It says physicians are hesitant to seek mental health treatment. They may fear social stigma and could have trouble finding a provider who they trust but is not a colleague.

Physicians might be concerned about confidentiality and fear recrimination by colleagues, facilities and their licensing Boards.

I can attest to this, I've had the conversation with any number of people, whether it's people I know personally or people that I have a kinship with on large social media groups.

This is a huge concern amongst physicians today, and we're all trying to figure out how do we seek the support we need in our own mental health whenever we fear recrimination.

And if you look at table two on this article, it refers to manifestations of mental illness in physicians. And the top of the list being severe irritability, anger resulting in intrapersonal conflict.

Now, I'm not suggesting that Dr. Mares is mentally ill, that's not the point I'm trying to make. It's not my judgment to make.

The point I'm trying to make is did we do our due diligence to prove to ourselves that she's mentally well.

When you confront a physician with the question, are you well? How are you doing? How -- mentally, how are you holding up?

Many of us -- I would dare say most of us would probably answer with, I'm fine, things are good. I don't think we're going to divulge our personal doubts and emotions unless we're in a trusting and nurturing environment with an interpersonal relationship with a person who's asking the question.

The other thing contained in this particular folder are in the form of e-mails, and I feel like these would be important for you to review at some point in the process.

At the top, the first e-mail that you see is a correspondence between Dr. Ing to Dr. Lo to Dr. Talbot.

DR. BARNEY: Can I ask you something?

DR. GLOVER: Yes, please.

DR. BARNEY: Who's Dr. Ing? I don't know that person.

DR. TALBOT: Yeah, he graduated when I did.

DR. GLOVER: Dr. Ing was a chief resident in our program when Dr. Mares joined us as a second year.

DR. BARNEY: Okay. Thank you.

DR. GLOVER: Dr. Ing and Dr. Mares, if I remember correctly, were together for approximately half of the year, and if I am also remembering correctly, she had one other chief resident for the other half of the year, and that's a bit unusual.

Typically you have a more diverse experience with your chiefs, but sometimes the rotations do line up in such a way that that happens.

And I can speak to the tension between Dr. Ing and Dr. Mares. Sometimes that was

apparent whenever you were an attending physician working with them; however, I do have my own personal experience to reflect upon.

When one of my interns, when I was a chief, had a similar experience. This particular intern was with one of my classmates for six months, and then a couple others of us had her for the other six months.

And the resident that I had experience with is, ironically, a lot like Dr. Mares, very introverted, incredibly bright, well-versed in other topics that many of us don't know a lot about, and she was with my classmate for the first six months of her residency, and during that period, I realized the kind of abuse that she was getting from her chief and how she wasn't fostering her.

And when I was able to have my educational experience with this intern, it was a lot of hard work. She didn't trust me. I had to beg her, please trust me not to hurt you. Please trust me to teach you.

I'm not going to let -- I'm not going to go place the blame on you. I'm the head of this service. Everything goes through me. I'm

going to protect you.

And the reason I'm telling you my own personal account is just to help you understand my perspective in some of the difficulties in the relationship between Dr. Ing and Dr. Mares.

Dr. Ing's teaching style, it wasn't wrong. She was a good chief resident, but it was a tough fit for Dr. Mares, and this can really wear a resident down very quickly whenever they're always in conflict or confrontation with their chief resident.

But despite this, despite the tension in their relationship, Dr. Ing reached out to Dr. Lo and Dr. Talbot about Dr. Mares, and the incident that I described to you earlier about the attending physician defaming her with the profanity that she used in the ER.

So this is what this e-mail is referring to.

DR. YAKLIC: Where is that, what tab?

DR. GLOVER: It is titled e-mails. And, again, I apologize for the sticky notes. In addition to this e-mail --

DR. YAKLIC: Is this -- so where --

DR. TALBOT: It says to Melanie

Glover, and then it says hi, Dr. Lo and Talbot.

DR. GLOVER: That's because Dr. Mares forwarded it to me.

DR. TALBOT: I've never seen it before.

DR. GLOVER: And it has a mark here at the top, on May 18th, 2017, at 7:47, Lisa Ing at her address.

DR. TALBOT: I must've just -- I didn't ever see this, as I recall, but maybe she sent it to Dr. Lo.

DR. GLOVER: Dr. Lo apparently received this e-mail. As I've included in your packet is an e-mail from Dr. Ing.

DR. BARNEY: Sorry, who's Dr. Lo?

DR. TALBOT: Dr. Lo is a faculty. She's the other associate program director at the Wright-Patterson Air Force Base.

DR. BARNEY: Thanks.

DR. GLOVER: It's a -- a long correspondence between Dr. Ing and Dr. Lo, and then also included is Dr. Lo's reported correspondence with Drs. Yaklic, Galloway and Talbot.

DR. BARNEY: Can you tell me who's on

competency committee? Because I don't really know the names of the people.

DR. TALBOT: Yeah. I mean, we could get you a list.

DR. BARNEY: Okay. Are any of these people that --

DR. TALBOT: Dr. Lo is on competency committee.

DR. BARNEY: Okay.

DR. YAKLIC: Dr. Kindig is not. Dr. Lo is.

DR. BARNEY: Are you on the committee, Dr. Glover?

DR. GLOVER: No.

DR. TALBOT: Dr. McKenna is on the committees. Dr. Towers.

DR. CROOM: Dr. Galloway.

DR. TALBOT: Dr. Galloway, Dr. -- from the base, Dr. Massengill.

DR. CROOM: Dr. Barhan.

DR. TALBOT: Dr. Barhan, and then Helen Bartlett is a nurse in labor and delivery. Rose Maxwell, our research professor, and Dr. Yaklic, so that would be it.

DR. POZNANSKI: And who was the

assigned mentor?

DR. TALBOT: Dr. McKenna and then Dr. Croom were --

(Thereupon, the court reporter interrupted the proceedings.)

DR. POZNANSKI: I asked who the assigned mentor was.

DR. BARNEY: Was there an attempt to assign a mentor to Jackie prior to her probationary period?

DR. GLOVER: Am I allowed to ask that?

DR. PAINTER: Actually if you're a witness, you can certainly give information --

DR. GLOVER: But I'm also her advisor.

DR. PAINTER: You're an advisor to her.

DR. GLOVER: Jackie, if you'd like to ask that question, the floor is yours.

DR. MARES: So was I given a mentor prior to being put on probation?

DR. TALBOT: Yes, at the letter of warning I believe is when. I'd have to look, because this was under Dr. Galloway.

DR. MARES: Prior to that.

DR. TALBOT: Prior to the letter of warning? I'm -- yes, it says -- in the letter of warning it says the monitoring and mentoring with Dr. McKenna, and I know that you saw him and then ultimately gravitated to also meeting with Dr. Croom.

DR. MARES: So then prior to that, I did not have a mentor, correct?

(Thereupon, the court reporter interrupted the proceedings.)

DR. YAKLIC: I asked her if she was assigned a mentor in the second year.

DR. TALBOT: I do know our policy was instituted that all the interns do get assigned a mentor. I don't know whether at the time that this -- if this was before that policy or whether it didn't -- because she came in as a second year.

That would be something Dr. Galloway would know.

DR. BARNEY: So currently do the interns all have a mentor assigned --

DR. TALBOT: Yes.

DR. BARNEY: -- as part of --

DR. TALBOT: Yes.

DR. YAKLIC: So we've done that for at least two years. I don't know if we did it three years ago, but I believe we did.

DR. POZNANSKI: Were you aware of the mentor?

DR. YAKLIC: Did you ask for one?

DR. MARES: I didn't have a mentor that I was aware of. No, I did not specifically ask for one.

DR. POZNANSKI: What was the length of time between the letter of warning and probation?

DR. TALBOT: The letter of warning was in May of 2017, May 15th, and probation was March 8th, 2018.

DR. POZNANSKI: Okay.

DR. YAKLIC: Just for clarification, the CCC also includes Dr. Nagy --

DR. PAINTER: Can you speak up?

DR. YAKLIC: Dr. Nagy, N A G Y, she was a former resident on the base and also was on the CCC.

DR. GLOVER: I know your time is precious today. If you'd like, I can proceed, or, again, if you need me to pause, I will. I feel

like I need to offer to you some account of some of these specific cases that have been brought against Jackie as means by which to support her termination.

If we can refer back to that patient that had the questionable abruption, whom Dr. Talbot and Dr. Kindig were the consecutive attendings, I did not hear in Dr. Talbot's rendition of the account that the mother of this patient had gone so far to say, I'm going to go up so that you don't falsify records and lie about her pain.

This is a nurse's personal account to me in a conversation about this case as she was trying to explain to me in detail how rude and threatening the patient's mother had been to Dr. Mares in the triage.

So I wanted -- and, again, I can't -- I can't give you documentation because this is a personal account; however, in trying to respect this nurse's privacy, I can tell you that she gave her account to Dr. Talbot upon request, and that she is someone who -- she is a very senior nurse on labor and delivery.

She's been doing this job for decades

and she was a nurse present during all of my training. I feel like I have a very good relationship with her, and she is never anything but fair to the residents.

She's never played games. She calls us out whenever we're out of line, and she supports us when we're in the right.

And in her account of that particular story, she said to me, Dr. Glover, this was no different really than so many of the other cases we have come through labor and delivery. You know how it is up there. This happens all the time.

But what was exceptional was how rude this mother was to Dr. Mares, and she said I felt like Dr. Mares had represented appropriately the assessment of that patient and plan up until that point.

Mind you this person had been in triage for six hours. So she had technically been under supervisory care for a very long time.

She said that Dr. Mares represented the plan and was polite and professional to the patient and her family as was -- were the other two junior residents.

This nurse told me that she stepped

out to ask Dr. Talbot to come to the bedside because the situation was escalating, and in her description to me she did it not because she had doubt in her residents, but because she wanted to protect them.

And that's what we do as attending physicians whenever situations escalate, we step in and protect our own while giving quality care to our patients and their families.

She said the initial response she got from Dr. Talbot was to have Dr. Mares call him. So as instructed, she went back to the bedside with Dr. Mares, and before she could relay the message, she said that Dr. Talbot presented himself to the bedside, and, as his right as the attending physician, made a plan to keep her.

That's her account of the story. But she said in no way were any of the residents ever inappropriate with this family.

And the family dynamic is rather complicated. The patient was lying in bed, appropriately medicated and silent, not responding for herself.

Her partner also not responding. It was the mother who was rude to our residents who

was representing the patient. So thank you for allowing me to add a little clarification, I hope, to that.

We've already discussed, I hope, some clarifying thoughts for the pancreatitis case as well, and I just realized, if you would please respect the privacy of the nurse, I do have a copy of the e-mail that she sent to Dr. Talbot of her account of that matter. Actually, Dr. Croom, if you could pass those down.

Before I leave this case, I just want to beg you all to reconsider this nurse's account again, what she says that the patient threatened to accuse them of falsifying a medical record and lying about her daughter's clinical status, because this is the same patient -- or, I'm sorry -- this is the same person who had the conversation as documented per Dr. Belcastro.

So for what that's worth, I'd like you to consider it.

I do want to point out that in Dr. Barhan's response to Dr. Talbot in the e-mail from Dr. Belcastro regarding this patient, Dr. Barhan, much to her credit, made a statement that's very simple, but really stands out to me when she said

this is real good material for teaching, and I completely agree with her.

I would argue that instead of using this as a means by which to terminate a resident who is dealing with a very, very difficult patient interaction, that perhaps we could have gathered ourselves to make a teaching experience occur.

She's certainly mature enough in her clinical training to be able to advance to learning how to deal more with a difficult patient.

It takes a lot of years and a lot of mentoring to learn how to do that, but I feel like Dr. Mares was ready at that time, and Dr. Barhan made a very good point.

The other e-mail that I included was from Dr. Talbot to Dr. Mares, and it -- I won't berate you with going through it because it discusses the things that we've already discussed regarding unprofessional behavior with medical students, nurses, residents, the particular cases, but it's outstanding to me that Jackie, if I'm remembering correctly, had her meeting with Ty and Dr. Talbot on October 4th, followed with an official letter of dismissal on October 5th.

On October 8th, I believe an e-mail trail could be confirmed to show that Jackie e-mailed Dr. Talbot to inform him of her due process decision, and at that time she asked him for a detailed account of the accusations that had led to her dismissal.

That was October 8th, three days after receipt of the letter, four days after their meeting.

The following day, Dr. Talbot e-mailed Jackie to request -- to appropriately request, I might add, that she use her Wright State University account. So a protective extension. We appreciate that, Dr. Talbot.

That was the 9th of October. It wasn't until the 21st of October that Jackie e-mailed Dr. Talbot again to follow up requesting for the detailed account the terms of her dismissal.

It was on the 22nd that Dr. Talbot sent the e-mail that I've included in your folder. And then finally on the 31st Jackie e-mailed in return that she will not challenge that these events occurred. She's owned them, they're hers, but she would like to discuss the details in front

of the appeals committee. That's what brought us here with regard to these e-mails that I have mentioned.

Are there any questions for me at this point or do I need to pause?

DR. PAINTER: Do you have any more information or are you at an end of --

DR. GLOVER: We're nearing the end.

DR. PAINTER: Okay.

DR. GLOVER: I just want to point out, and this is my opinion as I'm trying to learn about this process, I've never been a program director or an associate program director.

I've never been a faculty involved in these things, but as I come through Jackie's file and I read the letters from her program directors, I read the evaluations from the CCC, there's one thing that I can never piece together for myself, because as I'm reading these, I ask myself, had I been asked to be her mentor, would I be able to evaluate her file and pull from that file clear objective benchmarks that she needed to meet in order for me to mentor her and help her succeed, and I'll be quite honest with you, I have not been able to do that.

I have read over and over, I've highlighted, I've made notes, and there are always references to the manual, the policy, the procedure, the number. But as far as explicit examples, Jackie, we would like to see you improve your professionalism with medical students by engaging in these activities, I can't find it.

And I feel if I had been asked to be her mentor, I would have had to have put forth that effort to some way try to extract from the committee and the directors exactly what it was being tasked upon me to help her with.

Now, the mentors who were assigned to her, I'm not aware at any time that they were given explicit objective information as to how to help her.

They were told that they needed to meet with her monthly and mentor her, and that seems pretty vague to me.

And I think with that, I'll allow Jackie, if there's anything that you want to add on your behalf.

DR. MARES: Sure. I don't feel like I have much to say at this point in time. I think that everything has been clearly stated by both

sides.

As I have said before and as Dr. Glover has mentioned, you know, I've never denied that any of these things have happened.

I don't think in my mind that I've underplayed them at all. I've always owned them. I was completely atrocious to medical students in the second year. I don't deny that. It's absolutely true.

But I think that what's not pointed out is how much improvement I tried to make since then, and I feel like I did the best that I could with, you know, what I thought I had to offer in terms of trying to improve on everything that I was told about.

And I think that even if you read through everything, even the letters from the clinical competency committee, et cetera, everybody comments on how I continued to make improvements, and I still feel like to this day I continue to make improvements.

You know, I'm not going to be perfect anytime soon or likely ever, but I do want to be better. I don't want to have these types of problems.

So I have tried to continue to figure out what these are. It's apparent to me with just kind of how the situation was handled, that I likely have some sort of blind spot to how people perceive situations and how I perceive situations, because I feel like they're very different.

So since being fired, I have elicited the help of a counselor that I've met with regularly for coaching on professionalism and communication, and, you know, I want to continue to make strides in that regardless of, you know, whatever happens today. But I just wanted to point that out.

I don't think I have anything else to say.

DR. PAINTER: Okay. Questions from the panel?

DR. BARNEY: Jackie, did you at the time that you were given a letter of warning and then subsequently placed on probation and offered the opportunity to seek professional help, did you --

DR. MARES: I did.

DR. BARNEY: -- understand what the professional help options were for you and that

that would be arranged for you and you weren't going to -- you weren't going to be financially burdened by this opportunity or something else getting in the way of you seeking that?

DR. MARES: No, I wouldn't say that I was fully aware of that. You know, I got this warning letter obviously that you guys saw that said, you know, meet monthly with Dr. McKenna, which I did every month, and frequently more times than that.

And to meet regularly with Dr. Galloway, who then transitioned to Dr. Talbot, which I also did, and it recommended that I go to see a physician, which I also did.

And I see that that letter isn't in here, but I have a letter from the physician that I saw, but I can easily get a copy of, but I did go and see a physician when it was recommended to me.

And, yes, people would always be like we have counseling available to you, but that was it. And I think for a while I didn't think that counseling would be helpful to me. I didn't feel like I had a problem.

You know, I felt like there was just

a lot of extenuating circumstances, a lot of people weren't understanding, and part of that's true and part of that's probably not true, but, no, I don't think I understood kind of maybe everything that they were trying to offer.

DR. BARNEY: Did you feel that you had the opportunity to seek help from an advocate early on in your residency, an attending, a senior resident that -- that could speak on your behalf when there were questions? Or did you feel you had to be appointed an official mentor to have a mentor?

DR. MARES: I think I just didn't know. I think I came into the second year and just tried to do what they told me to do.

As a second year, you don't really have a relationship with attendings or with other people besides your co-residents, so I didn't feel comfortable going to any of them and that I didn't know them. I didn't know anything about them. It felt awkward to me be, like, hey, do you want to be my mentor.

And then in terms of chief residents, I guess I never really thought of them in that way, you know, since I was a chief resident, I

didn't see myself going that way, but at the time I didn't appreciate that.

(Thereupon, the court reporter interrupted the proceedings.)

DR. YAKLIC: I asked her did she meet with Dr. Galloway, our program director, on a regular basis. Because I believe the intent was that he was functioning as your mentor as you transferred into second.

DR. MARES: I think I met with him every three to six months.

DR. YAKLIC: Formally?

DR. MARES: Right, formally for my feedback on clinical competency committee and what they thought.

DR. POZNANSKI: Throughout several of these comments that I've read and that have been shared, there have been many comments that patients come first and that you've been a big patient advocate, and what has struck me of late that appears to be different is the subject of patient abandonment, and you were one of the ones who took care of those patients and recusing yourself from those. I'm hoping to get some clarification as to why that was the chosen

action.

DR. MARES: Sure. So in the first instance with the patient in triage, I came in late that day, we were working strange hours, because we had all of our chief class, aside from myself and another one, out at the Air Force district meeting. So one of us was covering it. So one of us were covering days for quite a few days while they were gone.

I came in Saturday night. I received checkout from the chief who was on, and I saw the patient was in triage, and I asked, you know, new or old, do you know anything about her?

And the chief on at that time wasn't familiar with her. So I asked the under level resident to conditionally take care of triage patients.

In this case it was a term patient, so they're seen first by an intern and then they're managed by the third year. And then in terms of admission or discharge, it's run through the chief resident and then the attending.

So I was aware that the patient had already been there for six hours by the time that I arrived, and they had already kind of done their

workup. They had done initial treatment. They explained to me kind of all of her course, and, you know, I agreed that they had kind of done their due diligence.

They had, you know, safely ruled out major things like abruption, et cetera. And that they had given her Tylenol and that she had slept for several hours in triage.

So I said, okay, staying or going, and they said that, you know, they felt that since they gave her Tylenol and she slept for several hours, that she was a candidate for discharge home, and I agreed and then spoke with the attending, who so happened to be Dr. Talbot, and he also agreed the plan was to send the patient home.

The first year went and spoke with the patient, as is what is usually done at our program, and then he elicited the help of the third year because he felt like he wasn't able to get through to this patient and their family.

And then I was called by the third year who said that the patient asked to go over the chain of command, and that they were asking to speak with me.

So I went and spoke to the mother, too, because I was asked to. I did not personally evaluate the patient myself, I mean, obviously she was in the room, but I went up to speak to the mother because I was asked to do that.

DR. POZNANSKI: Is it customary to -- as a third year to evaluate the patients?

THE WITNESS: No. We just receive phone calls from them. I mean, we're a part of their care, but we're already a part of their --

DR. YAKLIC: Jackie, as a third year, aren't you responsible for overseeing everything that occurs on your service?

DR. MARES: Right.

DR. YAKLIC: If there's a question from the care being performed by any of your junior residents, aren't you responsible for overseeing what's occurring?

DR. MARES: So let me rephrase that. I felt as if you were asking is it typical for me to oversee, as in go to the bedside and personally evaluate.

DR. YAKLIC: And that's my point. If there's a question about the evaluation that's been performed by one of your junior residents,

the buck stops with the chief.

DR. MARES: I agree.

DR. YAKLIC: Right? You are responsible for overseeing all care, and if that means reevaluating a patient, that is what you would expect to occur, right?

DR. MARES: Correct. And what I'm saying is that I did not have a problem with the assessment that my team, myself or the attending had made.

So when I saw her, I'm sure we spoke with the mother, and I did not reassess the patient. And at that point, the mother was already very angry, and at that point in the conversation she was literally standing so close to my face that I couldn't even look her in both eyes at once. I could only look at one eye.

And she was very aggressive, and it became clear to me, even through trying to explain calmly, you know, what our thoughts were like, you know, when she came in with pain and we needed to appreciate that, but she improved with Tylenol, and we feel like we could give her Tylenol or other antiemetics and she can go home with that, and obviously come back if there's a problem. We

felt comfortable going home.

The reference to, you know, how much it costs, like I did make a reference later to, you know, the cost of staying overnight, saying that, you know, it's not absolutely free and you would get the same medications, but that wasn't like a point of you have to go home or it's going to cost you thirteen thousand dollars.

And then ultimately the conclusion that we came to was that they felt comfortable with the Tylenol and how it had helped her pain. They didn't feel comfortable going home until they had already tried the oral medications that they were going to be sent home with.

So the decision before Dr. Talbot even came into the room was that the patient would stay and receive oral medications. And I had spoken with the nurse about the orals, and I was pretty much done with that encounter.

Then the attending walked in and announced their plan, and obviously whatever they want to do is whatever we do, and that's what we did.

So, you know, I went to my first and third year, I said, you know, transition over

to -- I spoke with the nurse to kind of make sure we had tried that medication on her, you know, in terms of how the patient is doing.

So the nurse very diligently documented about every hour to every two hours, is the patient sleeping, no concerns, things like that. Just making sure that we had all of our documentation on board because I knew that it was a very difficult patient.

And then in the morning, the first year and third year had seen her again, and, again, all agreed. The nurse said the patient pretty much slept through the night and that she was fine to go home. And so that was the plan that was presented to the attending.

I received a call later that morning that -- from Dr. Kindig that, you know, she wanted me to come and talk, you know, with the family about this patient's course of care.

And I said that I didn't feel like I was the best person to do that because, you know, the last time I had seen the patient, we had come up with a plan, we were comfortable with that plan and then the plan changed.

And so I kind of felt like I had been

made, and I didn't have the trust of the patient anymore, and it seemed strange to them to be the one to go back in there and try to convince them of something else now.

So I offered her the next most senior resident, my third year, who then continued in the care with Dr. Kindig regarding that patient, and I didn't hear anything else about that patient.

Dr. Kindig didn't speak to me again about her. She never said that she had a problem with how I sent the third year instead of going to see her myself.

The only reason I even found out that they were doing a C-section is because I was called by the nurses asking whose gloves, whose cards to pull, and I said, well, I wouldn't pull mine because I didn't even know this was happening, so I assumed I wasn't part of this.

And I was never asked to be part of the surgery by Dr. Kindig, by the third year, by anybody. And then that was it.

That's all I ever heard of this situation until I was fired, and then more of it came to light and then I was told actually by the third year that the family had complained. I

didn't even know about that either.

So that's the one situation, and how I felt in that situation. I appreciate that I probably could have continued to go with that family, but at that time, I felt like I had other competent residents who could do that, and I just felt like I just didn't have any credibility left with that family after the nights -- after the preceding events the night before. So that was the one situation.

The second situation with the gallstone pancreatitis, I was present and pretty much, more or less, responsible for her care for the entire week that she was with us.

We had admitted her back on a Monday and her surgery wasn't until the next weekend, so many, many days later.

I had taken that responsibility largely from the junior residents because we were having a lot of difficulties, as is normal with anybody just kind of getting ahold of the different consultant teams. It was taking up a lot of her time. I could see it was very stressful to her, and we had a very busy service otherwise.

So I was the main person responsible for kind of coordinating all of the care, all of the consultants, and with everything that happened, we had a very difficult time getting in touch with surgery on a regular basis, communicating with surgery, kind of knowing what the plans were, which was very uncomfortable for everybody involved.

You know, from our team as the primary care team trying to tell the patient what's going on, and we had very little idea. That was very stressful.

You know, the patient, even though she didn't speak English, you know, her husband spoke perfect English, when he was more than once, you know, up at the nurse's station being like what you are doing, what are you doing, my wife is dying, you're not doing anything. You know, is she going to die, all of these things.

And she had been booked for surgery two or three times and the surgery had never happened. And sometimes -- I mean, it's not that there was a very good excuse. There was always, you know, something else going on.

So the first time she was booked, she

was booked as an add on. They ran too late. They couldn't get her done. It happens all the time. It happens to us on a regular basis all the time. So she was scheduled for the next day.

So the next day there was a sign out and it said okay, today's the day, you know, everybody's on board. She's finally getting her surgery. We expect improvement. And then that also didn't happen.

From my understanding -- and I only found this out actually speaking with our GI consultant, because, again, I was, myself and other members on the team, unable to get ahold of surgery.

But we found out that GI had basically kind of cut them off at the knees as we were giving the patient Vaxzane (phonetic), no, no, no, she needs an ERCP.

So the GI consultant called me and said, yes, you know, we stopped her surgery, we're initiating ERCP. The plan is for her -- to get her ERCP, stay under sedation, be transferred over and then continue the surgery as previously scheduled, and so I was like, okay, fine.

And then it was much to my chagrin

when I found her back in her room around about an hour later with no surgery and no idea why she didn't have that surgery.

And that is when I called the general surgery resident, and after about two hours, I was finally able to get ahold of him, and I flew off the handle. It was inappropriate and unacceptable, but I just felt like nobody was paying attention to that patient and she was very, very sick and nobody was taking the time to then explain to anybody as part of her primary team, let alone the patient herself or her husband why things weren't going as we told them that they were going to go.

And so after that outburst, I apologized to the chief resident, I think the attending was also there, also the other people involved.

I called Dr. Glover, who was the MFM on that day, who generally takes care of these patients with us, and I told her that I had lost my cool and that I felt like it would be best if I stepped away in terms of direct communication.

So I did. And then I told, you know, my resident team what happened and I apologized to

them that they were likely going to have a harder time trying to kind of get things done because of what I had done.

Obviously I was still involved in her care and I was still taking calls on her, but I asked my junior residents to take up that role again of communicating with the other teams because it felt unprofessional in my mind for me to continue to do that. So that was that patient.

So essentially that was a Friday and I wasn't on call that weekend. So that was just kind of the natural end to my involvement with that patient.

DR. POZNANSKI: I need to interrupt you just a minute. If you were to complete the program and become an acting clinician and you, I think your words, lose your cool, who's going to take care of the patient then?

DR. MARES: I appreciate that nobody else could do that. Well, sometimes somebody can, but likely that responsibility will not be there and I won't always have co-residents who can do those things and pick up my slack, so I do appreciate that.

DR. POZNANSKI: Okay.

DR. PAINTER: Other questions for Dr. Mares?

DR. POZNANSKI: I would like you to elaborate on the patient whose mother was being held off campus for trespass after yielding a knife. I think that would be helpful for you to cover that for us to better understand it, because that was another accusatory thing.

DR. MARES: Right. So with that patient, I was the chief covering OB days. There's only one chief on consult because that program is a little short.

And I was vaguely familiar with the patient because she was admitted the day prior, and I had also been getting updates through the night chief about kind of what her status had been.

Her obstetrical course had always been, you know, more or less, truly unremarkable, but she had multiple, for lack of a better word, just kind of, you know, mental health issues that were providing barriers to her care.

I was told by nursing staff that they felt very uncomfortable taking care of her. We had nurses who were, you know, crying at the

bedside dealing with this patient and who had been, you know, kind of removed from that case.

She had been -- my junior residents had been working well with her, so she was a term patient. Again, the responsibility of my first and third year. The first year was not involved in her care. I'm not even sure why that was, but she was being followed by the second year and the third year, who both knew her and both had a relationship with her.

And then I came in the next morning and I also received kind of a very quick sign out from the night chief before we went to our sign out about the events that had unfolded that night.

The patient had become increasingly combative, both verbally and physically. She had threatened to multiple members of the staff, including, you know, my co-chief and nurses that she was planning on breaking the neck of the intern who was taking care of her that night if she ever came back in that room.

So the intern was taken off of that case. And that at one point in the night the patient's mother had come in with a knife to the hospital premises and was removed by security.

So it seemed very clear to me that not only were they making a lot of these threats, but they also had some intention on carrying through some of these threats.

So when the patient was presented at our sign out, I said I don't feel comfortable taking part in this C-section.

You know, I've never met this patient face to face. She has a well-established relationship with both my second and third year, who are both perfectly competent of doing a primary Cesarean section for a non-emergent reason.

I don't recall ever using expletives, although that is what Dr. Yaklic said. So if I did, I am sorry. That was not my intention.

My intention was just to say that I didn't feel comfortable doing that, because in the research that I've done about these patients, I actually did my grand rounds on dealing with peripartum mood disorders.

Dealing with a psychotic patient is actually an entire chapter in obstetrical books under obstetrical emergencies.

And the number one thing that it says

is to keep them in situations and with people that they feel comfortable with. So I felt that going in there as a person that didn't know them, that -- you know, I had no face value with them, it felt unnecessary and almost wrong, when literally the people sitting next to me are the second and third year who were taking care of her the day before and who had already established a relationship with them, and who, from my asking them, still felt comfortable participating in her care, because I did ask and I told them what happened that night. I said do you still feel comfortable participating in her care, and they said yes.

And so that was the plan. It was a Tuesday or Thursday morning, so our baseline chief is generally not on the floor for Cesarean sections, except in emergency situations because they're supposed to be done in our high risk clinic.

So that surgery and generally any non-urgent Cesarean section is generally performed by the second year who is running the entire board that morning, as it were, and then the attending.

And so I believe that's what

happened, although I don't know. And, again, this situation was also never discussed with me until I was being fired for it.

So I just wish that if people had such a level of concern about how I acted, that they would have spoken with me, and I appreciate that I haven't made it easy for other people to approach me, but I still think that they should probably have tried, because in my mind, unfortunately, we have patients like this every day, and some of them, you know, like I walk in, you know, everything goes well, you know, I'm going to get past it.

And in other situations like this, it can be more difficult, but I still have all of these other patients to care for, and so I move on. You know, I acknowledge the situation happened. I think about what happened. I try to make steps that I can do to make sure that something like that doesn't happen again, and then I just move on with my day, and then I'm never told about it until it's clearly already bubbled over to a head.

DR. YAKLIC: Can I stop you for one second? It was the 21st, it was a Friday, it

wasn't a Thursday.

DR. MARES: Okay.

DR. YAKLIC: You -- if you would have handled it in the call night, it wouldn't have been an incident, but you didn't. You emotionally blew up. Insisted you were not caring for the patient.

You didn't talk with the junior residents. Your junior resident wasn't involved in the case, other than the intern who had not submitted.

It wasn't like you sat there and said do you have a relationship with these patients, I need you, why won't you take care of it? That wasn't what you did, Jackie. You blew up and you refused to care for her.

DR. MARES: The second year --

DR. YAKLIC: That is a different situation.

DR. MARES: And as you're saying, yes, I agree, but the second year and third year were sitting next to me who took care of her the day before and who knew that patient.

DR. YAKLIC: She wasn't -- but the point is you're saying you didn't have a

relationship with the patient, that's why you didn't want to care for her? Your point was you did have a relationship with the patient and her mother had been threatening you. So you're contradicting your own reason for not wanting to speak with her.

DR. MARES: No, I didn't say that. The patient was never threatening to me. This was something that happened overnight with a different team and I was --

DR. YAKLIC: But you had cared for the patient the day before. You had been involved in her care.

DR. MARES: I was the chief on call the day before. I never formally met her. I was --

DR. YAKLIC: You had a relationship with her.

(Thereupon, the court reporter interrupted the proceedings.)

DR. YAKLIC: You had a relationship with her.

DR. PAINTER: Just one at a time.

DR. TALBOT: Can I say one thing as well about the -- a couple of the accusations

about that this was never talked to me until I was fired?

I talked to Dr. Mares on the floor. I sent her a text. I said I need to meet with you today, it's very important, and I reviewed it, what I had been given by the CCC.

It was not like I was intending the CCC -- I knew this was coming from the CCC. This did catch me a little bit by surprise, not completely, but the overwhelming urgency of it.

So I brought Dr. Mares into my office with my coordinator, and there is my account from that on the 4th and her account. Dr. -- or Ty Gebhard, her summary as -- as she witnessed the same conversation.

I had said at that point that I am doing my due diligence. I am unbiased. I'm trying to get all information I can to help me make this decision.

And that's when she said, well, this decision has already been made kind of thing. It's all in there from -- in her file from that -- this day.

And so I don't think that's fair that this was never discussed until she was fired. I

think, if anything, this was just another example of an unprofessional response to I'm throwing you this lifeline.

If you want to finish, you want to get this -- through this year, you tell me all of the -- all of what you told today. This was not the Jackie that I get.

And so maybe I'm not the same person as Dr. Croom or Dr. Glover that can learn -- know her on that same level, but I can certainly advocate for her, as I did at the start of when I became -- when it was clear I was going to become the program director.

And I said on the 5th when -- that is when I had made the decision, and that is when Dr. Yaklic met when I -- and I said that again to her. I said I really felt I gave you a fresh start and a clean slate.

So I think that is a little bit unfair statement about this that nobody talked to me until I was fired.

DR. CROOM: Can I comment on one thing? I agree with you, the actual firing did not take place until that meeting you just described, and I think that was on a Friday, if

I'm not mistaken.

DR. TALBOT: Right.

DR. CROOM: I got a call Wednesday afternoon from Dave McKenna who told me the decision of the committee. I had no idea they were meeting, I had no input into that, and I was told by Dave McKenna, I think it's important if you call Ted, okay?

I tried to reach you that day and wasn't able to. I was out of town the next day, but we touched base --

DR. TALBOT: We touched base twice.

DR. CROOM: Yeah, on Friday.

DR. TALBOT: On Friday we touched base and also I believe late in the day on Thursday. You wanted to know when I was off seeing patients and when I was there.

DR. CROOM: Right. And I can tell you the feeling that I had, based on what Dave said, and the way I was almost begging you to give her some sort of second chance, I had the feeling that it was a decision already made. I mean, that was the impression I had from that conversation, okay?

I knew that officially you could

disagree with the -- the committee, and you told me that, but you also shared with me that you really were put under some pressure. You were told by some of the committee, are you going to follow through with our recommendation? Are we going to continue to behave like we have in the past?

And so I felt you were -- you were put under some -- what I thought was very unfair pressure by some of the committee members, and I just had the feeling that it was kind of a done deal, and I'm not Jackie, I haven't experienced what Jackie has felt, but the fact that she walked in there and felt that way, you know, I'm not surprised by that.

DR. YAKLIC: The CCC clearly had made a recommendation. Their decision was made.

DR. CROOM. Right.

DR. YAKLIC: And it was sent to the program director.

DR. CROOM: Correct.

DR. YAKLIC: I know that at least twice during that time period, we also spoke with Dr. Painter and others in school administration to discuss the options. It was not a done deal.

And Ted really was looking for her to say, I understand. He didn't get it. He got a refusal to even speak. Three times account of their meeting. There was a third party sitting there. She refused to speak.

She was given the opportunity to -- for that input, and, unfortunately, reacted in the way she always reacts to these stressful, difficult situations.

DR. POZNANSKI: Jackie, could you --

DR. YAKLIC: She turned around and stormed out.

(Thereupon, the court reporter interrupted the proceedings.)

DR. POZNANSKI: I asked Jackie if she could comment on that meeting in terms of her response.

DR. MARES: I knew going into the meeting that it wasn't going to be a good one, because as Dr. Talbot had mentioned, he just texted me in the middle of my working day on Thursday like we need to meet.

Unfortunately, there weren't a lot of cases scheduled that day, so I said fine, and we set up a time and we went over there, and Ty was

there, and Ty is -- I don't know what her title is. I think she's like a residency coordinator, but in each of the situations previously with my warning, my probation, the residency coordinator, who was not previously Ty, but nobody's been there.

So I knew walking into it that it was something bad, just by the fact that she was there, and previously when I met with Dr. Talbot or other people, you know, nobody else would be there.

So I did feel very offensive by that, and he started out by just talking about the clinical competency committee, and like I already knew it was something bad, and so I didn't know why he was like rambling on about this clinical competency committee. It didn't like mean anything to me, and I wasn't really listening to what he was saying.

I wanted him to just say what he had clearly called me in to say. And then he told me, and I did feel very like taken aback, because the last time I had met with Dr. Talbot, the decision was that I was doing better, I was coming off of probation, I was going to be able to work, you

know, abroad during my rotation, and obviously I knew that these other situations had happened, but, again, nobody had approached me about them otherwise, and so I didn't really have like a major cause for concern that that was exactly what was going on.

And I became very irritated, because it just -- to me, it just felt like it was coming out of nowhere.

Like the last meeting that we had had, I was coming off of probation.

DR. GLOVER: At the very end of August?

DR. MARES: Right. So, yeah, that's how I felt. And I remember trying to -- like he didn't even ask what I thought had happened in those situations. He just told me what, you know, the accounts were.

So like the e-mail from Dr. Kindig. He told me that, you know, Dr. Yaklic had a problem with that thing.

And I said it seems very clear to me that you've already made up your mind, you know, and like you never even asked me what I thought or, you know, what my perspective was in those

situations. And he said that, you know, clearly there were just so many situations and that like I was the common denominator, so there was a problem.

And like my perspective on what happened wasn't overly relevant because it still happened and it was still a problem.

So I didn't really feel like sharing. So I left and I asked to leave and I then texted Dr. Talbot, I don't know, maybe about 15 minutes later and said sorry, for just kind of leaving that way.

He had mentioned that he wanted me to go to a meeting with all of these people that I didn't know, and I said I want to go to that meeting, I just don't want to go today. And he said fine, and that we'd find a time to meet on Friday.

So I returned to, you know, the things I was doing on Thursday, and, you know, I did my duties and things on Friday until that meeting, at which point I thought we were going to talk about options that I had, because Dr. Talbot had mentioned that there were options, but instead I was just dismissed from the program. So that's

my recount of what happened. I can't speak for obviously what they thought happened, but that's my perspective.

DR. BARNEY: Help me understand. In August you said you met and you were told you were coming off of probation?

DR. MARES: (Witness nodding head up and down.)

DR. BARNEY: Like effective what date you would be off of probation?

DR. MARES: They said by December --

DR. YAKLIC: (Inaudible.)

DR. MARES: They said by the end of the year.

(Thereupon, the court reporter interrupted the proceedings.)

DR. PAINTER: Hold on.

DR. TALBOT: Well, there's an August 29th --

(Thereupon, the court reporter interrupted the proceedings.)

DR. PAINTER: One at a time. We understand your challenge here.

DR. BARNEY: So I'm just seeking clarification as to your understanding of what

happened in August regarding your probation status.

DR. POZNANSKI: I'll just add -- I'll add onto that question, it was your interpretation that you were coming off of probation. Was it your interpretation that that was a set deal or did you have certain things that you had to complete in order to make that happen?

DR. GLOVER: If she can pull that up, it's described in the letter.

DR. POZNANSKI: I understand. I've seen it in one of the previous documents. I want to know what your interpretation was.

DR. MARES: I wasn't told that there was anything else specifically that I had to do between now and then. I was just told that they were going to be taking me off of probation by the end of the year, like in December, and I said okay.

I didn't -- in retrospect, I should have asked, you know, why December, what's supposed to happen between now and then? But I didn't. I just said okay and that was it.

DR. BARNEY: Was there a letter?

DR. TALBOT: There is a letter.

(Thereupon, several people in the room were having a discussion.)

DR. BARNEY: Is it in the resident file or is this the other file?

DR. TALBOT: It's in the resident file.

DR. BARNEY: The other question, while we're hunting for that, Dr. Mares, is maybe I don't completely understand how the service works on OB-GYN, but my understanding from being an educator in a teaching service is that in team care, the attending is always -- the buck stops at the attending, and ideally you're in a training environment, so the attending is the responsible person. Is that not the way it happens on OB-GYN? Every patient has an attending assigned to them.

DR. MARES: Right.

DR. BARNEY: So there's some attending's name on the chart who ultimately, if there's a conflict or a question, some interaction with the attending would be the last step in a problem?

DR. MARES: Correct.

DR. BARNEY: So did you have -- in these experiences, did you have a sense that you

were not able to talk to the attendings when there were issues where you felt like I'm -- I shouldn't be involved in this case anymore, I should talk to my attending and just say, hey, this is -- you know, this is going south and I think for everybody's benefit, I should step back and let these other residents be involved? Is that not a process that normally happens?

DR. MARES: I -- I'm not sure I can really answer your question. I think from, you know, me and like what you're referencing to, you know, like I usually did tell my attending when these things happened.

So, I mean, I told Dr. Glover about the one case, and it was absolutely my intention to speak with Dr. Talbot about the other case, although that just wasn't necessary because of how that panned out.

We do take a very authoritative role, I guess, as a chief resident. They're viewed as our patients, and the attending is always there, but the -- they're there in an observer role. Like you call them and you tell them what the plan is, and that's that expectation.

So, I mean, it wasn't a surprise to me that, you know, as they were initiating the chain, that they called me first before calling somebody else. That is how things are done in our program, and I think that we would all say that we feel the need to be ready and have things done, you know, so that by the time we go to the attendings --

DR. BARNEY: Okay.

DR. YAKLIC: I will say I think our service is a little bit different than surgery. The patient is really your patient. The residents are involved in our service, especially our OB staff service and emergency staff service.

It's the -- we consider that the chief section. We're rotating on their service, they're not rotating on our service, so you're always going to have that attending as your backup person, but there is always an attending.

I mean, we consider to be practicing like the ACGME says. Independently under supervision. There's always supervision. There's always that person there to ask, but the expectation is they should take ownership of their patient.

It is just like a private practice, and, you know, and they're treated as if they're -- you're the chief. And the expectation is they should really be caring for that patient. And as an attending, you don't refuse to continue caring for your patient.

I think that's the challenge. And if you do get to that situation, you need to discuss it in a professional manner.

DR. GLOVER: May I make a comment as Jackie's advisor? As an attending physician, and this is my practice, when I have a resident who's having a meltdown or telling me they're uncomfortable, I try to understand what they're trying to tell me.

I hope that when Jackie told you that she was uncomfortable dealing with a patient who's acutely psychotic, for good --

(Thereupon, Dr. Yaklic interrupted the proceedings.)

(Thereupon, the court reporter interrupted the proceedings.)

DR. GLOVER: -- for good clinical explanation for the patient's benefit, but I hope you also inquired about the team's safety. How do

you feel? Is anyone physically threatened?

Because I know you've never been the small woman in the room, Jerry, you haven't.

And there's a reason I got myself physically beat on two to three times a week for several years to get a black belt so I could physically be more capable in this place.

So I hope, I hope that -- despite our greatest frustrations of a resident who we're perceiving as belligerent and emotional, I hope we're still thinking about their safety.

DR. YAKLIC: And I'm not referring to that case in particular.

DR. GLOVER: I am.

DR. YAKLIC: Okay? That's fine. In that situation, I would have been more than happy to have that discussion with the chief resident because --

DR. GLOVER: But did you initiate it?

DR. PAINTER: One at a time.

DR. GLOVER: Sorry. Sorry.

DR. YAKLIC: Because she flew off the handle, was acting unprofessional, and at that point, in all honesty, my feeling was -- and I

wish I would have brought a bigger attention to it sitting here now. I've said that to Ted three times; however, at that time, to make a bigger deal of it would have been to point out the unprofessionalism either further to the junior residents, nurses and others in the room.

It -- it caught me completely by surprise. It was a completely by surprise approach. I -- there's not a resident in this program that will tell you at any given time, you tell me, will you please do this C-section for me, the answer is always yes.

It drives you crazy pacing around with your hands behind your back because you're not doing the surgery. I'm always happy to help out in any situation, whether it's because someone's uncomfortable caring for this particular patient, it's going to be a particularly difficult case, the service is overflowing and busy.

That wasn't the response. It had nothing to do with her not caring for that patient. It was the unprofessional nature in which she dismissively (sic) said, I'm not dealing with this, and basically stormed off. That was the problem.

And even when I relayed that message to Ted, I mean, fortunately I had surgery that afternoon, I was leaving town for vacation, I was looking for a private moment to talk to Jackie about it and it never came up, unfortunately, before I left.

But I did call Ted and relayed it to him, and even when I said it, I'm like, you know, I know she's on probation, I don't personally think this is a big enough issue to change anything, but you need to be made aware of it, okay?

No, that -- I -- that episode in isolation would not have been anything that would have prompted dismissal, okay?

DR. POZNANSKI: Do you happen to know who the residents or junior residents were that were on that particular case?

DR. YAKLIC: Yeah, you know who it was. Who were your residents?

DR. MARES: Dr. Brant, Dr. Paulette, Dr. Hancox and Dr. Candeaa.

DR. POZNANSKI: And when you say the second and third year were comfortable doing that --

DR. MARES: That was Dr. Paulette and Dr. Durrant. And I would also just like to say that I truly, from my perspective, don't feel that I was acting completely irrational in saying I didn't feel comfortable doing that.

I also did not feel like I was flying off the handle. I said that I didn't feel comfortable doing it, and you said nothing, and we moved on and finished sign out. I didn't abruptly leave.

We continued with patient care, as we always do, and then I went on with my business as I always do.

DR. GLOVER: This patient and her family were so difficult. It did not stop with this case. Her younger sister, who is a minor, soon thereafter had a scheduled elective C-section.

I was the attending on that day, and there was the whole thing again with the mom who had been -- who had trespassed and bearing the knife and she was acting out for campus police that day, and I had the father there, and he wouldn't consent to his minor daughter having the surgery, and I was supposed to supervise, unless

his wife could be there.

And it this whole -- we spent the whole morning, just the whole morning, delaying the surgery because I couldn't get consent because this family was being so disruptive to the point where I said, maybe we should just reschedule this, it's not going well. This is how difficult they were.

DR. TALBOT: Just one more --

DR. PAINTER: We're going to get kicked out of here at noon and we can go across the room if we need to.

DR. TALBOT: No, that's the only question about probation. It says in there we discussed her coming off probation in the next three months if she continues to progress as she has been.

And then on the bottom it is, we'll continue to meet monthly regarding her progress. It is my plan if she continues to show improvement, she will be taken off probation by the middle of December, the reasons why and if I could help her in any way.

So it was contingent on that we continued to see improvement, and the CCC, when

they met again, these issues were discussed. There was -- there's also several other residents that are discussed. So there -- we spent at least a half an hour or more on Dr. Mares, and a lot of the conversation did address these issues, but not with every one did they say, well, what's her side of the story to justify this.

There was a continual pattern of unprofessional behavior such that they deemed that she would not come off of probation. That was the take home message from all this.

DR. CROOM: Ted, I mean --

DR. TALBOT: The minutes are there, too. I'm sorry.

DR. CROOM: No, no, no, what I'm saying is, the questions that this panel has asked are primarily what was Dr. Mares' side of the story, and I think it would have been helpful if the CCC had had some input prior to making that decision. That was never done.

DR. YAKLIC: Are you suggesting that you think she should have been allowed to come and talk to the CCC?

DR. CROOM: No, no, someone should have presented that for her. Her mentor or

someone should have presented that.

DR. YAKLIC: Dave was her former mentor.

DR. CROOM: That's not what I said. Someone should have presented her side and it was never presented. I mean, that's not her fault.

DR. TALBOT: Well, we're getting her side today. It wasn't --

DR. CROOM: Well, I understand that.

DR. TALBOT: It wasn't --

(Thereupon, the court reporter interrupted the proceedings.)

DR. BARNEY: One at a time.

DR. PAINTER: One at a time.

DR. TALBOT: I think we tried to ask for that, the attendings that were involved and approached her and never could get it. We're getting today much more than we ever did. So they --

DR. POZNANSKI: Why do you think that is? I mean, you made a comment earlier that this is not the Jackie you had before.

DR. YAKLIC: Well, the first time I heard Jackie say --

DR. POZNANSKI: What's changed?

DR. YAKLIC: The first time I heard Jackie say she needed to finish this program and cared about finishing this program was the day she got her dismissal letter. I mean, I guess I'll ask the question, you know, rhetorically to Jackie and she can answer if she'd like.

When she was given a formal letter of warning and then put on probation, did she not seriously feel that she was at risk of not completing the program enough to change her behavior and make that full effort.

You said you seeked -- sought counseling since being dismissed. Did you consider doing it prior to that? Did you realize your behavior was a problem?

You were told on numerous occasions in all those letters that you were risking dismissal from the program. Why didn't you care about it? I mean, I really wish -- I want to know. Why didn't you care about it until you were dismissed?

Because I -- we -- I personally asked you, mentioned in the hall a couple times informally, and said you really need to graduate. You really need to sit for your Boards. You

really need to be a Board certified OB-GYN even if you choose to walk away after that.

I wanted you to succeed and I wanted you to care enough to succeed, and you didn't until we dismissed you, and I wish you would have done something earlier.

And I did speak to you on several occasions, and I'm sorry if I didn't do it enough.

I agree with Melanie, we failed you okay? But you failed us, too. We asked you to improve and you didn't do it. You didn't take it seriously until you were dismissed.

DR. POZNANSKI: I would like to hear Jackie's response to that.

DR. MARES: I -- I personally always felt very dedicated to this program, and I think that you'll see that in the letters that, you know, my co-residents wrote on my behalf, and regardless of what I plan to do afterwards, I always planned on, you know, putting in 100 percent to finish this program and to do it to the best of my ability.

And I know that I -- I knew that I needed, you know, to continue to grow and improve in a lot of areas, and I feel like I made

concerted steps in the best way that I knew how to do that.

I did seek counseling earlier in my third year, which I did not think was relevant to previously disclose you, but I didn't do that because I did appreciate the gravity of the situation, but at that point in time, it just -- I kind of felt just so broken down that it didn't really matter like what else I did.

I was just going to continuously disappoint everybody. So I just tried to, you know, go through each day with each thing that was presented, and, you know, as I continued to do that, my perspective changed and I found something that I became very passionate about that ideally I would like to pursue, you know, if I were to graduate, but I just felt like I couldn't ever truly talk to somebody about, you know, why I wasn't going to like take my Boards or why I wasn't going to practice.

I don't feel like people really asked, and if they did, it was to ask me like, you know, how are you doing today; fine. You know, like, so why aren't you, you know -- like, oh, like talking to me across the OR table like so why

aren't you taking your Boards? I'm not going to talk to you across the OR table about, you know, why I'm not taking my Boards, so, yeah, I just -- that's why.

DR. POZNANSKI: It seems to me that you've been a big patient advocate and that you enjoy clinical care. Why aren't you taking your Boards? What is the decision to step away from that going forward?

DR. MARES: So from my perspective, you know, I was a problem resident. I had a warning letter. I was on probation. I clearly wasn't performing to the standards of my residency program. I didn't feel like anybody would hire me. I wouldn't hire me.

So I felt like it would probably be better if I just tried to find something else to do. That's why.

DR. POZNANSKI: Do you want to be a clinician?

DR. MARES: Yes, I do.

DR. GLOVER: Why don't you offer to them a patient population that has really drawn your affection that you were alluding to wanting to take care of other patients?

DR. MARES: We are in the opioid capital of the United States and we deal with a lot of addicted mothers and addicted women in general, and our program has taken a specific interest in helping these women, and the residents have been invited into that care, and I just -- it was like the one patient population that I work with where I know a lot of other people don't enjoy working in that setting, but it's just -- I didn't feel like it was work.

It didn't feel hard. It felt really easy, and, so, you know, I'd like to continue working with them theoretically in substance abuse and disorders, and I was recently told that there was even a fellowship in addiction, which I didn't know about until a few months ago. So, yeah.

DR. CROOM: Jackie is working with me in my clinic for opioid addicted moms, and you know, I was never asked about this reoccurring thing about her not taking the Boards.

My conversation made it very clear, Jackie, in order to do a fellowship in addiction medicine, you have to be Boarded. And my understanding, the conversations we had, was that was the direction she was headed in, to get

Boarded in OB-GYN, but she would be practicing addiction medicine. To get into a fellowship, you have to be Boarded, and I never got the opportunity to share any of that.

The other thing I want to make -- I mean, Jerry, it -- it -- I was glad that you shared that you thought we failed Jackie.

DR. YAKLIC: We did.

DR. CROOM: Because, I mean, Melanie's compelling. I mean, you know, I didn't realize the depths until I got to know Jackie fairly well, but not to the degree of everything that she shared with us and the big picture that we all missed, and the fact that we both played a part in this, I find it disturbing that only one person is receiving consequences from that.

DR. YAKLIC: Nobody -- the program does not take pleasure in discharging a resident, okay? And anybody who feels that the program director and the chair being here at this proceeding instead of interviewing next year's incoming interns and that doesn't have a consequence for the program, I think that's an unfair statement, okay?

But this -- this was a very difficult

decision for Ted taking over as the new PD. This was a very difficult decision for the faculty. This was a very difficult decision for the clinical competency committee.

You know, I'll talk about additional consequences. You know, we had several other residents. One of them is a former grad, so it's not all current residents.

I can tell you at least one of the residents who wrote a letter and another one of the chiefs were in my office with that other chief crying because they were coerced, they felt, to write letters on her behalf by you.

I'm not saying that the letters that were written weren't intentional or weren't indicative of what their feelings for Jackie are, there's clearly support, but it damages -- this just clearly damages our program.

Nobody -- the easy thing to do would have been to graduate Jackie, and that's unfortunately in some cases in the past what we've done, but our prior mistakes don't make future mistakes correct either, okay?

I've heard from several people, we've graduated worse residents. You know, I don't say

I'm going to agree or disagree, but that doesn't mean we should continue to do that.

We are trying to improve this program. Trying to improve our standards. I made efforts. You know, I -- too many jobs. I haven't been around clinically as much as I would like to recently.

I clearly feel we failed Jackie, I really do, but, you know, you can't help somebody who isn't willing to help themselves, and we've offered on many occasions the opportunity to help.

I can tell you personally, several residents in our program that have had depression and other issues that have asked me, how do I get a confidential counseling? Military residents, how do I do this without the military finding out?

We found people for them. I can't help you if you don't ask me to help you.

And, I mean, to Melanie's point, you know, well, maybe we should have mandated a psychiatric evaluation.

Would that have been less damaging to somebody's career than seeking confidential counseling? I -- I don't think that anybody ever felt that there was a psychiatric condition.

DR. GLOVER: Jerry, I never said that.

DR. YAKLIC: Yeah, you did, because I wrote it down when you said it.

DR. GLOVER: I did not say mandates.

DR. TALBOT: Dr. Croom said that to me in the phone calls, and I have that in my --

DR. CROOM: I asked is that something that could be mandated.

DR. TALBOT: You can't. Well, no, it can't because I've got here -- this is from residents remediation, probation and dismissal. It's in the pathology letter, and it says, medical or mental health issues that affect resident performance are also grounds for remediation, probation or dismissal.

A resident cannot be forced to seek counseling or therapy, and the program director should not attempt to diagnose the perceived medical or mental issue for the resident or insist that a resident seek specific care; however, the program can expect that the resident take any necessary steps to address medical or mental health issues and produce a fit for duty letter.

This was done at the letter of

warning. It was done again at the five day absences the month later. It was done on formal probation and it was done with my initial April letter.

So I don't know more what -- like he said, what more we could do on that aspect.

DR. GLOVER: You could have gotten to know her and understood how lonely she was and how self-deprecating she was every time her failures were pointed out to her and how --

DR. YAKLIC: I don't know how we force someone to allow us to get to know them.

DR. GLOVER: You can't force it.

DR. YAKLIC: I guess that's --

DR. GLOVER: You have to foster an environment in which they allow themselves to be known.

DR. YAKLIC: All I'll say is in the last three years in the time that Jackie's been here, my door has always been open, and many other residents have come in. Several of them have asked for help in obtaining counseling and other things.

Again, I'm not claiming I'm perfect, and we all go through periods of growth, but I

don't know what else I could have done.

DR. GLOVER: It's -- please, just what I'm trying to say is it's very different to ask for help under the circumstance of your own volition. It's --

DR. YAKLIC: Okay. I understand that. Melanie, did you identify that there was -- you have a close relationship. You knew that there were these concerns. Did you bring them to myself, Dr. Talbot, Dr. Galloway?

DR. GLOVER: I developed my relationship with Jackie in the --

DR. YAKLIC: Did you advise her to come and talk to one of us?

DR. GLOVER: So she --

(Thereupon, the court reporter interrupted the proceedings.)

DR. PAINTER: Hold on.

DR. YAKLIC: Prior?

DR. GLOVER: I did not know her that way. I did not know -- I did not know she was on probation. I don't know what I don't know.

DR. POZNANSKI: When did you get involved?

DR. GLOVER: After she was fired, I

was asked to be her advisor. Up until that point, my relationship with Jackie has purely been from our academic and clinical interactions together, with lectures, she's delivered my patients. I've covered the board on labor and deliver.

DR. BARNEY: Just for a point of clarification, I'm not sure that -- that voluntary faculty are apprised of -- of a resident's probation status because of concerns of influencing -- I mean, unless there's --

DR. YAKLIC: It's a violation of --

DR. BARNEY: Yeah, I was going to say, I don't know that that is common that people know for the residents' safety in allowing them a fair shake by individual evaluators.

DR. YAKLIC: Unless they need to know.

DR. PAINTER: We can have one or two more questions. I think we're going to have to adjourn to another room, and the court reporter who seems to have developed a cramped hand.

DR. CROOM: I just want to make one point. I -- if I implied that there were no consequences to you in the program, I'm in error, because I appreciate what you said. I'm

talking -- I should have the gravity of the consequences, okay?

DR. YAKLIC: And I would still state, we've just missed an entire end of the day, and I think that's pretty significant.

DR. CROOM: We go on with our lives. The next group of residents --

DR. YAKLIC: Well, hopefully we do a better job.

DR. PAINTER: Other questions or the last questions?

DR. POZNANSKI: If you were to be given another opportunity, do you think you'd be ready to graduate in six months or when you're supposed to graduate, and if not, what -- regardless, do you think you'd be ready to graduate, and then what do you think you need to be able to be ready to graduate in how much time?

DR. MARES: I think I would be ready to graduate. I don't believe that I lack in clinical or surgical deficiencies. So more to do with my personality and my attitude.

So I don't know what can help this. Counseling has been helpful. So I guess

continuing with that, I'm open to suggestions, but that's about all I can think of.

DR. PAINTER: Does anyone have any other questions?

DR. GLOVER: I don't have any other questions.

DR. POZNANSKI: At one point you also said I was atrocious to medical students, and you admitted that why?

DR. MARES: I think that it's been made very clear I had a difficult time transitioning into this program, and to terribly use the whole proverb, shit runs downhill.

Melanie was very clear. I was getting it from one end and I delivered it then to my medical students that were under my charge, and I know that that wasn't right and I have made significant strides in that area.

It's not just a lack of the negative comments, there have been positive comments that have been shared with me, so I feel like in that area, I have made significant growth.

I think I maybe even corrected that problem.

DR. YAKLIC: Just one other thing. I

mean, Melanie made the point about when Jackie came in, she was behind clinically and surgically. And it was recognized, and it's something I know.

I interviewed her and Dr. Galloway interviewed her, and we talked extensively about it was a concern that she was coming to this program.

We talked with Jackie about the fact that that would be a challenge and something she would have to do. Melanie suggested, well, we should have done some special rotation or something.

Our residents scrub every privacy section. This was an identified problem before Jackie joined. We knew it was going to be a challenge. Jackie knew it was going to be a challenge.

Again, hindsight is 20/20, but short of sending her someplace else, I don't know what we could have done to give her an opportunity to do more surgery that wasn't taken away from somebody else.

This situation of you had to steal them from your junior residents to get more cases was unavoidable. That was part of the challenge

of coming here.

We've had other residents in similar situations that have come and been successful.

We identified that it was going to be a concern moving forward. It wasn't like we ignored that fact.

I -- again, you know, the only alternative would have been not to accept Jackie in the program in the first place, and I don't know that that would have been fair to Jackie either.

DR. POZNANSKI: Why did you leave the other program?

DR. MARES: I was in a preliminary position.

DR. YAKLIC: Well, we -- we had an opening and she had a need and we -- yeah, we knew there would be challenges. I'm not saying we didn't, but in all honesty objectively, the only alternative would have been not accept her.

DR. PAINTER: Going once. Going twice. Where are we going before we're going to get kicked out of here in --

DR. BARNEY: So I have a question. Is the panel discussion done or is this group

going to be --

DR. PAINTER: Dismissed?

DR. BARNEY: -- dismissed, right.

DR. PAINTER: So the court reporter is dismissed.

(Thereupon, the hearing was concluded at 11:39 a.m.)

STATE OF OHIO)

COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Barbara A. Nikolai, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named proceeding was reduced to writing by me stenographically in the presence of the parties and thereafter reduced to typewriting.

I FURTHER CERTIFY that I am not a relative or Attorney of either party nor in any manner interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this 10th day of December, 2018.

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BARBARA A. NIKOLAI
NOTARY PUBLIC, STATE OF OHIO
My commission expires 12-13-2018

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